

EXHIBIT A

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF INDIANA

MATTHEW BISSONNETTE,

Plaintiff,

-v-

CAUSE NO.

1:15-CV-00334

KEVIN PODLASKI and CARSON

BOXBERGER, LLP,

Defendants.

The deposition upon oral examination of

MATTHEW BISSONNETTE, a witness produced and sworn

before me, Julie A. Nicholson, RPR, CRR, Notary Public

in and for the County of Hamilton, State of Indiana,

taken on behalf of the Defendants at the offices of

Kightlinger & Gray, LLP, One Indiana Square,

Suite 300, Indianapolis, Indiana, on November 16,

2016, at 9:25 a.m., pursuant to the Federal Rules of

Civil Procedure.

STEWART RICHARDSON & ASSOCIATES

Registered Professional Reporters

One Indiana Square, Suite 2425

Indianapolis, IN 46204

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ALSO PRESENT: Kevin Podlaski

INDEX OF EXAMINATION

DIRECT EXAMINATION

Questions By Mr. Furman:

CROSS-EXAMINATION

Questions By Randal Johnston:

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INDEX OF EXHIBITS

DESCRIPTION

Letter dated August 30, 2012,

with Attachments

Two E-mails dated August 30,

2012

Second Amended Complaint

E-mail - Subject: Couple things

E-mail - Subject: It's Me

E-mail - Subject: It's Me....

My new email address

E-mail chain - Subject: Author

selection

E-mail chain - Subject: ZDT -

technical advisor

E-mail - Subject: Schedule

E-mail chain - Subject: Tech

Advisor

E-mail - Subject: Author

selection

E-mail Chain - Subject: Kevin.

Maurer cowriting assignment -

deal memo

E-mail chain - Subject: Title

E-mail chain - Subject: Update

E-mail chain - Subject - fyi

E-mail chain - Subjects: Call

with Fox; Reply from Bowden;

Even more from Bowden

E-mail chain - Subject: Hey

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INDEX OF EXHIBITS (CONTINUED)

DESCRIPTION

E-mail chain - Subject: E3

E-mail - Subject: Confirmed

E-mail chain - Subjects: MOHW

DLC; Mark Owen E-mail

E-mail chain - Manuscript

schedule

E-mail - Subject: MOHW

Consulting LOI

E-mail chain - Subject: Where

is

E-mail - Subject: Future

guidance

E-mail chain - Subject: Mark

Bissonnette {SIC}

E-mail - Subject: Navy SEAL

foundation

E-mail chain - Subject: No Easy

Day

E-mail chain - Subject: Mark,

as reporters begin to focus on

the Bowden book

E-mail chain - Subject: Mark

Bowden's book

Plaintiff's Responses to

Defendants' First Set of

Requests for Production

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<p style="text-align: right;">Page 5</p> <p>1 MATTHEW BISSENETTE</p> <p>2 having been first duly sworn to tell the truth, the</p> <p>3 whole truth, and nothing but the truth took the stand</p> <p>4 and testified as follows:</p> <p>5 DIRECT EXAMINATION</p> <p>6 BY MR. FURMAN:</p> <p>7 Q Mr. Bissonnette, what address do you use as your</p> <p>8 home address?</p> <p>9 A I'd have to look it up. I have different</p> <p>10 addresses, but it's an address in Colorado.</p> <p>11 Q Okay. Can you put that on the record?</p> <p>12 A Yeah. I'd literally have to look it up on my</p> <p>13 phone.</p> <p>14 Q Well, where do you live?</p> <p>15 A In Lakewood, Colorado.</p> <p>16 Q Okay. You don't know the address?</p> <p>17 A No, because I use -- I use P.O. boxes to get mail</p> <p>18 and stuff like that. So I typically try not to</p> <p>19 disclose my home address. Obviously if you need</p> <p>20 it, I can produce that. But that's the reason I</p> <p>21 don't know it off the top of my head.</p> <p>22 Q Okay. At the time of this lawsuit that was -- the</p> <p>23 second amended complaint that was filed in Indiana,</p> <p>24 where did you live? This was filed on December 2</p> <p>25 of 2015.</p>	<p style="text-align: right;">Page 7</p> <p>1 Information Nondisclosure Agreement, otherwise</p> <p>2 known as a CINA, C-I-N-A. There was a Sensitive</p> <p>3 Compartmented Information Nondisclosure Statement,</p> <p>4 otherwise known as an SCI, that was dated on</p> <p>5 January 7 of 2000 -- I'm sorry, January 24 of 2007.</p> <p>6 There was also a Sensitive Compartmented</p> <p>7 Information Indoctrination Memoranda that was also</p> <p>8 dated January 24 of 2007. And then finally, there</p> <p>9 was a Sensitive Compartmented Information</p> <p>10 Debriefing Memoranda that was dated April 20 of</p> <p>11 2012. And that was all attached to that August 30,</p> <p>12 2012, letter; correct?</p> <p>13 A It appears to be.</p> <p>14 Q Well, when you got the letter, did you --</p> <p>15 RANDAL JOHNSTON: May I --</p> <p>16 MR. FURMAN: Sure.</p> <p>17 RANDAL JOHNSTON: May I interrupt just for a</p> <p>18 minute because I -- we've had this problem with a</p> <p>19 couple of exhibits. There's a -- I think there are</p> <p>20 two occasions on the exhibit where his Social</p> <p>21 Security number is revealed. And for purposes of</p> <p>22 preservation of his personal information, I would</p> <p>23 ask that that be obliterated on the document.</p> <p>24 MR. FURMAN: That's not a problem. And we</p> <p>25 could do that during one of the breaks. We can</p>
<p style="text-align: right;">Page 6</p> <p>1 A 2015 would have been North Carolina.</p> <p>2 Q Okay. And how long have you lived in Colorado?</p> <p>3 A Less than a year.</p> <p>4 (Exhibit 1 was marked for identification.)</p> <p>5 Q I've shown you what's been marked as Exhibit No. 1.</p> <p>6 It's in front of you.</p> <p>7 A Yeah.</p> <p>8 Q Do you recognize that document?</p> <p>9 A It appears to be the letter that I got from the</p> <p>10 DoD.</p> <p>11 Q Okay. And that was on August 30 of 2012?</p> <p>12 A Yes.</p> <p>13 Q How did you get it?</p> <p>14 A I don't exactly recall. It would have -- it came</p> <p>15 from the DoD. When and how I first got it, I'm not</p> <p>16 sure.</p> <p>17 Q Did you get it on that day?</p> <p>18 A I'm guessing. I don't know. I can't remember.</p> <p>19 Q You don't have a recollection as to whether you got</p> <p>20 this letter on August 30 of 2012?</p> <p>21 A I'm assuming that I did, but I don't remember</p> <p>22 specifically. It's...</p> <p>23 Q And there were several attachments to the letter</p> <p>24 from Mr. Johnson. Those attachments included a</p> <p>25 personal attestation. There was a Classified</p>	<p style="text-align: right;">Page 8</p> <p>1 redact the exhibit.</p> <p>2 Q Mr. Bissonnette, when you received the August 30 of</p> <p>3 2012 letter, were those documents attached to it as</p> <p>4 well?</p> <p>5 A I believe so.</p> <p>6 Q Did you read the letter when you got it?</p> <p>7 A Yes.</p> <p>8 Q And it's a significant letter; right?</p> <p>9 A Absolutely.</p> <p>10 Q It's from the General Counsel of the Department of</p> <p>11 Defense; correct?</p> <p>12 A Yes.</p> <p>13 Q And, you know, I typically do this at the beginning</p> <p>14 of depositions. I didn't feel I needed to, but</p> <p>15 I'll just do it just for the sake of good order.</p> <p>16 You've been -- you've had your testimony taken</p> <p>17 under oath before; correct?</p> <p>18 A Yes.</p> <p>19 Q And you understand that there's a reporter here</p> <p>20 that is going to take the information down;</p> <p>21 correct?</p> <p>22 A Yep.</p> <p>23 Q I'll be asking you questions, and I'll do so</p> <p>24 verbally. And once the question is asked, I'll</p> <p>25 need you to respond.</p>

<p style="text-align: right;">Page 9</p> <p>1 A Okay.</p> <p>2 Q And so that even though we may get familiar over</p> <p>3 the next seven hours or so, we still need to</p> <p>4 communicate verbally on the record.</p> <p>5 A Absolutely.</p> <p>6 Q Is that understood?</p> <p>7 A Yeah.</p> <p>8 Q And if there's any question that I ask that you</p> <p>9 don't understand --</p> <p>10 A I'll ask to repeat it.</p> <p>11 Q -- just ask me to repeat it.</p> <p>12 A You got it.</p> <p>13 Q And I'll do it in a better accent.</p> <p>14 A Deal.</p> <p>15 Q Okay. Do you recall where you were when you got</p> <p>16 this letter?</p> <p>17 A North Carolina, Raleigh.</p> <p>18 Q And who did you speak to once you received it?</p> <p>19 A I'm assuming I would have called Elyse. Usually</p> <p>20 Elyse was kind of my first -- Elyse Cheney,</p> <p>21 literary agent was probably one of my first calls</p> <p>22 to say, Okay, whoa. You know, what's going on?</p> <p>23 What do we do?</p> <p>24 Q And did you speak to Ben Sevier?</p> <p>25 A I'm sure he was involved in some of those</p>	<p style="text-align: right;">Page 11</p> <p>1 that. Beyond that, no.</p> <p>2 Q Now, on the sixth page of the document, that's your</p> <p>3 signature on there, I believe; correct? No. Flip</p> <p>4 forward to the sixth page. And that's the second</p> <p>5 page of the SEI DD 1847. That's your signature in</p> <p>6 the middle?</p> <p>7 A Yes, sir.</p> <p>8 Q And the date is January 24 of 2007?</p> <p>9 A Yes, sir.</p> <p>10 Q And there's an individual named Tenika, I think</p> <p>11 that is, Ortiz?</p> <p>12 A Okay. Yeah.</p> <p>13 Q Who is Tenika Ortiz?</p> <p>14 A Tenika Ortiz was, like, one of the people at the</p> <p>15 command who handled all the -- the -- a lot of our</p> <p>16 intel-type paperwork stuff, classification stuff, I</p> <p>17 believe. I know she -- I know she did a lot of</p> <p>18 things, but I remember she helped me with my --</p> <p>19 with my security package, your clearance paperwork.</p> <p>20 Q Now, obviously in your position with the Navy --</p> <p>21 let me go back to that first just so it's clear.</p> <p>22 You were with the Navy for how many years?</p> <p>23 A Just under 14.</p> <p>24 Q And how long were you with the DEVGRU, D-E-V-G-R-U?</p> <p>25 A From -- I started selection and training in 2004.</p>
<p style="text-align: right;">Page 10</p> <p>1 conversations.</p> <p>2 MR. FURMAN: And it's S-I-E-V -- no?</p> <p>3 MS. LEMKHEN: S-E-V-I-E-R.</p> <p>4 MR. FURMAN: S-E-V-I-E-R. And Elyse is</p> <p>5 E-L-Y-S-E.</p> <p>6 THE COURT REPORTER: Thanks.</p> <p>7 Q Now, at the time, the publishing date for No Easy</p> <p>8 Day was set for September 11 of 2012; correct?</p> <p>9 A I believe so.</p> <p>10 Q And so the receipt of this letter was a significant</p> <p>11 event in terms of the publication of the book;</p> <p>12 correct?</p> <p>13 A Yeah, yeah. I mean, it was the first -- the first</p> <p>14 thing we heard back from the government saying,</p> <p>15 Hey, whoa. We got issues here.</p> <p>16 Q Now, I want to ask you about the SCI that was dated</p> <p>17 January 24 of 2007. Do you recall signing it?</p> <p>18 A No.</p> <p>19 Q Do you recall the process of when and how you would</p> <p>20 have signed it?</p> <p>21 A I'm assuming it would have been when I checked in</p> <p>22 at the command. Actually, not even at the command</p> <p>23 because I checked in before '07. So at some</p> <p>24 point -- it wouldn't have been my -- I checked in</p> <p>25 in '04. So it would have been obviously after</p>	<p style="text-align: right;">Page 12</p> <p>1 I graduated the end of that year. And then I</p> <p>2 left -- when I left the Navy, I separated from that</p> <p>3 unit.</p> <p>4 Q And what does DEVGRU stand for? What is that?</p> <p>5 A Development Group.</p> <p>6 Q And is otherwise known as the SEALs?</p> <p>7 A Sure, yeah. You have to -- you don't have to be a</p> <p>8 SEAL to be stationed there, but it is a SEAL unit.</p> <p>9 Q And at the time that you signed this SCI, the one</p> <p>10 that's before you, do you know the purpose of it?</p> <p>11 A To make sure that we did all the proper</p> <p>12 in-processing paperwork. I mean, I signed tons of</p> <p>13 paperwork as I checked into the command so I'm sure</p> <p>14 this -- I don't know why this would have been in</p> <p>15 '07 rather than in '04 when I first checked into</p> <p>16 the command, but obviously this was in keeping up</p> <p>17 with whatever qualifications they needed me to keep</p> <p>18 up with.</p> <p>19 Q And this deals with nondisclosure. Do you</p> <p>20 understand that?</p> <p>21 A Yes.</p> <p>22 Q And this specific DD 1847 is not specific to any</p> <p>23 particular mission, is it?</p> <p>24 A Not that I know of. I...</p> <p>25 Q And were you on any particular missions or sent to</p>

<p style="text-align: right;">Page 13</p> <p>1 any particular missions around the time that this</p> <p>2 document was signed in January of 2007?</p> <p>3 A Not that I recall specifically. We did a lot of</p> <p>4 missions. I don't remember this being attached to</p> <p>5 anything specific at all.</p> <p>6 Q Were you given the opportunity to read this</p> <p>7 document at the time that you signed it?</p> <p>8 A Sure.</p> <p>9 Q And did you understand that when you signed it, you</p> <p>10 were bound to that agreement?</p> <p>11 A Yes.</p> <p>12 Q And among other things, did you understand that at</p> <p>13 paragraph three of this document -- so you can flip</p> <p>14 back to the first paragraph -- I'm sorry, the -- it</p> <p>15 would be now the fourth page of the document. So</p> <p>16 one, two, three, four -- fifth page. Forgive me.</p> <p>17 One more. Yeah.</p> <p>18 A Number three?</p> <p>19 Q Yeah. And paragraph three, the third paragraph --</p> <p>20 the third sentence, rather, states that, quote, I</p> <p>21 understand that it is my responsibility to consult</p> <p>22 with appropriate management authorities in the</p> <p>23 department or agency that last authorized my access</p> <p>24 to SCI whether or not I am still employed by or</p> <p>25 associated with that department or agency or a</p>	<p style="text-align: right;">Page 15</p> <p>1 I have prepared for public disclosure. Did you see</p> <p>2 that?</p> <p>3 A I can see it now. Do I remember signing this and</p> <p>4 reading this? No. Had I remembered all this</p> <p>5 clearly, I don't think we'd be in the position we</p> <p>6 are today.</p> <p>7 Q Well, do you understand what that means?</p> <p>8 A Yes, sir. Now reading it, of course.</p> <p>9 Q And was Operation Neptune Spear a special access</p> <p>10 program?</p> <p>11 A I do not believe so.</p> <p>12 Q Why don't you believe so?</p> <p>13 A From my understanding, a special access program,</p> <p>14 there's additional paperwork signed, and that's a</p> <p>15 whole different ball game, my understanding. And</p> <p>16 I -- I don't believe that we signed anything for</p> <p>17 that.</p> <p>18 Q Was the CIA involved in Operation Neptune Spear?</p> <p>19 A Yes.</p> <p>20 Q Who did you get your instructions from in</p> <p>21 connection with Operation Neptune Spear?</p> <p>22 A What type of directions? I get a lot of</p> <p>23 instructions from different folks, but --</p> <p>24 Q Well, when did you first learn about it?</p> <p>25 A Several weeks before the mission.</p>
<p style="text-align: right;">Page 14</p> <p>1 contractor thereof in order to ensure that I know</p> <p>2 whether information or material within my knowledge</p> <p>3 or control that I have reason to believe might be</p> <p>4 SCI related or derived from SCI is considered by</p> <p>5 such department or agency to be SCI. Did you</p> <p>6 understand that that was part of your obligation?</p> <p>7 A Yes, but no. I mean, did I read this in detail</p> <p>8 when I signed it? No. I signed thousands of</p> <p>9 pieces of paper through my career. And did I read</p> <p>10 the fine print and certainly, you know, very</p> <p>11 detailed legal-ish docs? No. Did I pay attention</p> <p>12 to these at the level I should have? No.</p> <p>13 Q Well, do you appreciate the fact that if you signed</p> <p>14 it means that you're bound by it?</p> <p>15 A Yeah.</p> <p>16 Q In the fourth paragraph, the second sentence reads,</p> <p>17 I hereby agree to submit for security review by the</p> <p>18 department or agency that last authorized my access</p> <p>19 to such information or material any writing or</p> <p>20 other preparation in any form, including a work of</p> <p>21 fiction, that contained or purports to contain SCI</p> <p>22 or description of activities that produce or relate</p> <p>23 to SCI or that I have reason to believe are derived</p> <p>24 from SCI that I contemplate disclosing to any</p> <p>25 person not authorized to have access to SCI or that</p>	<p style="text-align: right;">Page 16</p> <p>1 Q And who did you learn it from?</p> <p>2 A My head shed, my officer in charge of my squadron.</p> <p>3 Q You said head chef?</p> <p>4 A The leadership of my SEAL squadron.</p> <p>5 Q Okay. And who was that?</p> <p>6 A At the time -- I don't want --</p> <p>7 RANDAL JOHNSTON: I'm going to --</p> <p>8 A -- to name names.</p> <p>9 RANDAL JOHNSTON: Yeah. I'm going to caution</p> <p>10 you to not reveal anything you're obligated not to</p> <p>11 reveal about who is or isn't a SEAL, who is or</p> <p>12 isn't in command, et cetera.</p> <p>13 A We would have first heard about it from our -- the</p> <p>14 commander of our squadron, the head shed, those in</p> <p>15 charge. We traveled a short distance away and were</p> <p>16 briefed, and that's when the -- all the planning</p> <p>17 started.</p> <p>18 Q Is there a particular reason why you can't name</p> <p>19 names in this deposition?</p> <p>20 A I've been through so much stuff in the past four</p> <p>21 years. I'm very -- I don't want to have to name</p> <p>22 names if I -- if I don't absolutely have to. And</p> <p>23 the way I've been treated by the government through</p> <p>24 this whole thing, I would like to -- less is more</p> <p>25 certainly when it comes to names, locations, stuff</p>

<p style="text-align: right;">Page 17</p> <p>1 like that. It's important for me not to violate</p> <p>2 any type of rule that -- that I've rogered up not</p> <p>3 to break.</p> <p>4 Q Okay. Well, getting back to a rule that you signed</p> <p>5 in 2007 --</p> <p>6 A Okay.</p> <p>7 Q -- which is in front of you -- and I'm referring</p> <p>8 now to paragraph four --</p> <p>9 A Okay.</p> <p>10 Q -- the -- did Operation Neptune Spear in your mind</p> <p>11 involve something that -- an operation that would</p> <p>12 be classified?</p> <p>13 A In my mind, did I know it would be classified?</p> <p>14 There was -- that I could remember, there was</p> <p>15 nothing additional that was involved that said,</p> <p>16 Hey, look, we're taking this to additional level of</p> <p>17 classification. Nobody ever came in and said, Hey,</p> <p>18 look, sign this extra paperwork to do this. Not</p> <p>19 that I can remember. So in my mind, that would</p> <p>20 have fallen in the same category as any other</p> <p>21 operation I'd been involved with.</p> <p>22 Q Now, I want to ask you if I have this right. There</p> <p>23 are three levels of classification. It's either</p> <p>24 confidential, secret, and top secret. Is that how</p> <p>25 you understand the classifications of --</p>	<p style="text-align: right;">Page 19</p> <p>1 that Osama bin Laden was in Pakistan?</p> <p>2 A Yes. We'd been briefed he was at a possible</p> <p>3 location, and we planned against that location.</p> <p>4 Q When you received that information, did you believe</p> <p>5 that information was top secret, secret, or</p> <p>6 confidential?</p> <p>7 A I don't think I ever thought of any of them. I</p> <p>8 just thought, okay, we don't talk about that</p> <p>9 because that's obviously -- in my -- did I apply a</p> <p>10 classification to it? No, not in my mind. I</p> <p>11 assumed that, okay, hey, look, we didn't even tell</p> <p>12 people -- we kept that very quiet. Right. That</p> <p>13 was amongst the team that was doing the training or</p> <p>14 the planning for it.</p> <p>15 Q Well, if I was a reporter for the Washington</p> <p>16 Post --</p> <p>17 A Right.</p> <p>18 Q -- and I called you and said, Do you know where</p> <p>19 bin Laden is on that day that you learned --</p> <p>20 A Right.</p> <p>21 Q -- he was in Pakistan, would you have revealed</p> <p>22 that?</p> <p>23 A No.</p> <p>24 Q Why would you not have revealed it?</p> <p>25 A Because that was a mission that was -- that we were</p>
<p style="text-align: right;">Page 18</p> <p>1 A From my understanding, sure.</p> <p>2 Q And how do you have that understanding?</p> <p>3 A It's three different levels, three different -- the</p> <p>4 priority at which that information should be</p> <p>5 protected.</p> <p>6 Q And when did you learn that there are three levels</p> <p>7 of classification?</p> <p>8 A I couldn't tell you. Sometime during my career, I</p> <p>9 would have been -- had some sort of brief like this</p> <p>10 where it would have been explained to me at that</p> <p>11 level. Did we ever have a sit-down class on it?</p> <p>12 Not that I can remember.</p> <p>13 Q Now, before you learned about Operation Neptune</p> <p>14 Spear, you understood that Osama bin Laden was the</p> <p>15 most wanted man in the world. Is that your</p> <p>16 understanding?</p> <p>17 A Sure.</p> <p>18 Q And did you learn information in the course of</p> <p>19 Operation Neptune Spear where the location of the</p> <p>20 world's most wanted man was or believed to be?</p> <p>21 A I missed you. Sorry.</p> <p>22 Q In other words, when you first learned about</p> <p>23 Operation Neptune Spear --</p> <p>24 A Uh-huh.</p> <p>25 Q -- did you learn that there was reason to believe</p>	<p style="text-align: right;">Page 20</p> <p>1 planning for. Right. Had that information been</p> <p>2 released, it could have been detrimental to our op.</p> <p>3 Q And in your mind, would that have meant that</p> <p>4 Operation Neptune Spear was an SCI?</p> <p>5 A I don't know in my mind that I would have put SCI</p> <p>6 anywhere other than, okay, hey, we need to protect</p> <p>7 this. What level of classification it got to --</p> <p>8 you know, the Ortiz lady, she might have gotten</p> <p>9 into all that, but at my level, I didn't think that</p> <p>10 way.</p> <p>11 Q But at the very least, would it have been a</p> <p>12 question in your mind as to whether Operation</p> <p>13 Neptune Spear was -- the information about Neptune</p> <p>14 Spear was something that would fall within an SCI?</p> <p>15 A Again, I wouldn't have classified it in my head SCI</p> <p>16 anything other than, hey, this is information that</p> <p>17 I needed to protect. Never once did I think of</p> <p>18 levels of information and think, well, that's this</p> <p>19 category, this category, that category. To me, it</p> <p>20 was always, okay, look, we're -- we got this</p> <p>21 mission coming up. This is a very high-profile</p> <p>22 mission. Obviously we're not talking about it.</p> <p>23 But did anybody ever come in and brief us</p> <p>24 accordingly and say, This was this, this was this,</p> <p>25 this was this, not that I recall at all.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q And when you were briefed on Operation Neptune 2 Spear, did it involve members from the Central 3 Intelligence Agency? 4 A Yes. 5 Q Any other agency involved? 6 A I'm sure, but they didn't all introduce themselves. 7 There was a lot of people in the room. 8 Q When you say "a lot of people," are you in a 9 position to name names of those people? 10 A I wouldn't remember them. I know our squadron, 11 right, our guys, the handful of us that were 12 selected. Those are the guys that I knew. I had 13 no relationships with anybody else in the room that 14 showed up and were part of the training and 15 planning and any of that. 16 Q Where did that meeting take place? 17 A The first one? I mean, we had lots of those 18 meetings. We had two weeks of rehearsals, bouncing 19 all over the country. In every location, there was 20 more people. 21 Q Where was the first meeting? 22 A North Carolina. 23 Q And do you recall how many people were at that 24 meeting? 25 A No. I mean, 24 of us, tack on another 15, 20</p>	<p style="text-align: right;">Page 23</p> <p>1 2007. Paragraph nine, it says, quote, Unless and 2 until I am released in writing by an authorized 3 representative of the department or agency that 4 last provided me with access to SCI, comma, I 5 understand that all the conditions and obligations 6 imposed upon me by this agreement apply during the 7 time I am granted access to SCI and at all times 8 thereafter. Do you see that? 9 A Yep. 10 Q And at the time that you signed this document, were 11 you agreeing to be bound by that? 12 A Yeah. Do I remember reading that? No. 13 RANDAL JOHNSTON: Object; nonresponsive to 14 everything after "yeah." 15 MR. FURMAN: That's fine. 16 Q You understand that you were obligated based on 17 your signature to that paragraph; correct? 18 A Yes. 19 Q And paragraph 12 says that you've read this 20 agreement carefully and any -- and my questions, if 21 any, have been answered to my satisfaction. Do you 22 see that, that paragraph 12? 23 A Yes, sir. 24 Q Did you have any questions at the time? 25 A No.</p>
<p style="text-align: right;">Page 22</p> <p>1 maybe. 2 Q And at the time that -- was it at that meeting in 3 North Carolina that you first learned that there 4 was reason to believe that Osama bin Laden was in 5 Pakistan? Yes? Was it at that meeting for the 6 first time -- 7 A Yes. 8 Q -- that you learned -- 9 A Yes. 10 Q -- that Osama bin Laden was in Pakistan? 11 A They believed he was there, yes. 12 Q And did anyone at that meeting mention that this 13 was highly classified, top secret information? 14 A No, not that I can remember. I drove down the next 15 morning. I had some medical family issues going 16 on. So the first day that the guys drove down to 17 have their first round of meetings with the agency 18 folks and all of that, I was not there. I drove 19 down the following morning. I'm not sure if they 20 would have covered any of that the day prior. But 21 when I showed up the next morning, the planning was 22 up and running. Those same people were there, and 23 that's where we did most of our planning. 24 Q Now, I want to focus your attention to the next 25 page of the SCI that you signed on January 24 of</p>	<p style="text-align: right;">Page 24</p> <p>1 Q And in paragraph 13, it states that, I hereby 2 assign to the United States government all rights, 3 title and interest, and all royalties, 4 remunerations, and emoluments -- I think I passed 5 that -- that have resulted, comma, will result, or 6 may result from any disclosure, publication, or 7 revelation not consistent with the terms of this 8 agreement. Do you see that? 9 A Yep. 10 Q What did you understand that to mean? 11 A Are you asking me now or are you asking me when I 12 signed this -- 13 Q I'm asking you now. 14 A Now when I read it, it means that if I violate 15 these, the government has the right to do X, Y, and 16 Z. 17 Q And at the time that you read this document, would 18 your understanding be different than it is today? 19 RANDAL JOHNSTON: I'm going to object to the 20 form of the question in terms of the time frame. 21 At the time he read the document? 22 Q At the time that you read the document. 23 A To be perfectly honest, I didn't read every word of 24 this. I -- I don't even know when in '07 this 25 would have happened. But again, I signed a million</p>

<p style="text-align: right;">Page 25</p> <p>1 pieces of paper while I was there. And did I read 2 this document in detail then? No, I didn't. 3 Q Do you appreciate, though, that on the day that you 4 signed it, you were bound by all the paragraphs in 5 that, including paragraph 13? 6 A Yes. 7 Q On the next page of Exhibit No. 1, it's entitled, 8 Sensitive Compartmented Information Indoctrination 9 Memoranda. And below that title, it states, This 10 memorandum records the fact that I was briefed on 11 listed date below and to the following Sensitive 12 Compartmented Information, parentheses, SCI, closed 13 parentheses, special access programs. And then it 14 says, Use unclassified indicators only. And it has 15 some writing there. Do you recognize that writing? 16 A No. 17 Q In typewritten form, it appears to have the 18 initials SI/TR. Does that mean anything to you? 19 A No. 20 Q Below that, there's handwritten notations that I -- 21 I can't make out. And I'm -- I offer you my 22 magnifying glass if you want to take a look at it 23 and see if it helps you. Do you know what that is? 24 A No. 25 Q And I may have asked you this before and forgive me</p>	<p style="text-align: right;">Page 27</p> <p>1 A Appears to be a debriefing memorandum. 2 Q And what does that mean? 3 A Some form of debrief out of the -- debriefing you 4 about your classification stuff, intel stuff. 5 Q That's your signature that appears on this 6 document? 7 A Yes, sir. 8 Q And above your signature, it states, I was reminded 9 of the need for special protection of SCI material, 10 of the fact that access to this material is 11 governed by the terms of the SCI nondisclosure 12 agreements that I previously signed, and of my 13 continuing obligation to comply with the terms of 14 that agreement. Do you see that? 15 A Yes, sir. 16 Q And your signature is an indication that you agree 17 with that statement above? 18 A Yes, sir. 19 Q Now, above your signature, at the very top of the 20 document, it states that, This memorandum records 21 the fact that I was debriefed on this date on the 22 following Sensitive Compartmented Information 23 special access programs, and has the indicators 24 ST/PK/G/HCS. Do you know what that means? 25 A No.</p>
<p style="text-align: right;">Page 26</p> <p>1 if I ask you again. Do you recall the purpose of 2 signing this particular document because it's your 3 signature on this document -- 4 A Right. 5 Q -- that is before you, which we're discussing at 6 the moment? 7 A Yeah. The purpose was to talk about how I've been 8 briefed on certain sensitive SCI-type programs. 9 Q And do you recall which programs you were being 10 briefed on? 11 A No. 12 Q Below the handwritten at the top of the document -- 13 below the handwritten notations that we could not 14 decipher, it says, Authority optional, colon, and 15 the letters DONCAF/JPAS RPT of 661114. Do you know 16 what that means? 17 A Absolutely not. 18 Q Do you know why that information would be there? 19 A No clue. 20 Q Now, lastly, there on the very last page of the 21 document, Exhibit No. 1 -- you can flip to the last 22 page now -- is what's titled a Sensitive 23 Compartmented Information Debriefing Memoranda. 24 And the date of it is April 20 of 2012. What is 25 the significance of this particular document?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q Did you ask what it meant? 2 A No. 3 Q And just below that, it says, And no others. Do 4 you know what that means? 5 A No. 6 Q What's the significance of April 20 of 2012? 7 A Couldn't tell you. 8 Q Well, when were you discharged from the Navy? 9 A June -- June 28, I believe. 10 Q Of what year? 11 A '12. 12 Q And how were you discharged? In what form? A 13 letter, in person? 14 A You go in, turn in your badge, sign some paperwork, 15 and you're done. 16 Q And where did that take place? 17 A At the command. 18 Q At the command in Virginia Beach? 19 A Yeah. 20 Q Turning to this document that we're referring to 21 now, which was signed on April 20 of 2012, where 22 were you when you signed this document? 23 A This would have been in -- at the command in 24 Virginia Beach. 25 Q And were you debriefed on that day?</p>

<p style="text-align: right;">Page 29</p> <p>1 A I don't remember any type of long debriefing. I</p> <p>2 remember signing a whole bunch of paperwork.</p> <p>3 Q Well, how about a short debriefing?</p> <p>4 A I don't even remember that. I remember a</p> <p>5 checklist, and I walked around the command and had</p> <p>6 different departments sign it, bottom line it, turn</p> <p>7 in your stuff, and you're out. When you're on your</p> <p>8 way out the door, it's turn in -- I had already</p> <p>9 turned in most of my stuff anyway. It was</p> <p>10 literally the last bit of admin out-processing.</p> <p>11 Q Well, how did you know to show up at the command on</p> <p>12 April 20 of 2012?</p> <p>13 A I probably scheduled it and said, Okay, I'm going</p> <p>14 to come in that day and out-process.</p> <p>15 Q And who did you talk to when you out-processed?</p> <p>16 RANDAL JOHNSTON: Again, I caution you not to</p> <p>17 use names.</p> <p>18 A A ton of people. Right. You get a check-out sheet</p> <p>19 and you get -- you follow the check-out sheet</p> <p>20 around the command, and you get each department</p> <p>21 head to sign off on it that says, Okay, you've</p> <p>22 taken care of this. You've taken care of that.</p> <p>23 Q How about as it relates to information that you</p> <p>24 learned during the 14 years you were in the Navy,</p> <p>25 in particular with DEVGRU?</p>	<p style="text-align: right;">Page 31</p> <p>1 to it. So to say that we got briefed with some</p> <p>2 sort of top secret material for that op, I wouldn't</p> <p>3 agree to that.</p> <p>4 Q Okay. And just turning to the bin Laden raid in</p> <p>5 Pakistan, would you have considered that to -- that</p> <p>6 your briefing on that -- that very first day in</p> <p>7 North Carolina, would you consider that to have</p> <p>8 been top secret information?</p> <p>9 A Yeah, I would have considered it pretty sensitive.</p> <p>10 Again, I wasn't there the first day. I showed up</p> <p>11 the second day and was never sat down, was never</p> <p>12 talked to, was never told anything specific about</p> <p>13 classifications at any level.</p> <p>14 Q Well, did you have an understanding that it was top</p> <p>15 secret?</p> <p>16 A I assumed that it was information that should be</p> <p>17 protected.</p> <p>18 Q Well --</p> <p>19 A Again, applying a classification level to it, I've</p> <p>20 never done that my whole career. It was, okay,</p> <p>21 hey, look, this is some stuff we need to keep</p> <p>22 quiet. We're going to go sneak in his house in a</p> <p>23 couple weeks. That probably shouldn't get out.</p> <p>24 Q Did you tell anyone about the raid before it</p> <p>25 happened outside of the Navy SEAL community?</p>
<p style="text-align: right;">Page 30</p> <p>1 A Right.</p> <p>2 Q Did you get any instruction on the handling of</p> <p>3 information after you left?</p> <p>4 A No.</p> <p>5 Q No one talked to you about the handling of</p> <p>6 classified information?</p> <p>7 A No. This would have been the closest thing that I</p> <p>8 can remember, right, that -- that I would have</p> <p>9 signed that would have pertained to that. And</p> <p>10 again, I probably signed 200 sheets of paper that</p> <p>11 day going around to different departments; supply</p> <p>12 department, air department, diving department,</p> <p>13 intel, whatever it was. You run around the</p> <p>14 command, get your signatures, and then I was out.</p> <p>15 Q Now, you've been involved in several operations, at</p> <p>16 least that I know of, based on public disclosures.</p> <p>17 For example, the Captain Phillips raid. When you</p> <p>18 were preparing for the Captain Phillips raid, did</p> <p>19 you receive classified information that you used to</p> <p>20 conduct the operation?</p> <p>21 A I don't know that we -- I don't know that -- what</p> <p>22 level or what term any of that would be considered</p> <p>23 classified. Right. We all knew there was three</p> <p>24 pirates on a life raft. Right. That was on Fox</p> <p>25 News and everywhere else for three days leading up</p>	<p style="text-align: right;">Page 32</p> <p>1 A No.</p> <p>2 Q Family members?</p> <p>3 A No.</p> <p>4 Q Friends?</p> <p>5 A No.</p> <p>6 (Exhibit 2 was marked for identification.)</p> <p>7 Q Mr. Bissonnette, I've shown you what's been marked</p> <p>8 as Exhibit No. 2.</p> <p>9 A Okay.</p> <p>10 Q This is an e-mail from you listed as MO, which is</p> <p>11 your pseudonym, Mark Owen. And it's to Ben Sevier,</p> <p>12 Kevin Podlaski, Elyse Cheney, Kevin Maurer, and</p> <p>13 Christine Ball. And the subject is, Fax from DoD.</p> <p>14 And it's dated April 30 of 2012. And the time is</p> <p>15 11:35 p.m., which I'm assuming is Eastern Time. Do</p> <p>16 you see that document?</p> <p>17 A Yes, sir.</p> <p>18 Q Now, the first indication or the first line in that</p> <p>19 e-mail is, I'm in for the meeting. What is that a</p> <p>20 reference to?</p> <p>21 A I couldn't tell you. I'm guessing it's some sort</p> <p>22 of in-person meeting.</p> <p>23 Q And what did that meeting relate to?</p> <p>24 A I couldn't tell you.</p> <p>25 Q Now, in the e-mail, it says, Kevin P. And I'm</p>

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1 assuming you're addressing Mr. Podlaski there?

2 A Yep.

3 Q From the looks of the docs, apparently I did sign

4 some sort of SAP program docs. Do you see that?

5 A Yes.

6 Q Up until that time on August 30 of 2012, did you

7 tell Kevin Podlaski that you had signed a DD 1847,

8 nondisclosure agreement?

9 A I don't remember quoting any exact documents that I

10 signed. That was part of it as, Hey, I had signed

11 a ton of paperwork. Do I remember, you know,

12 nomenclature of what form was what? I had no clue.

13 Q And in the e-mail, you write, quote, I honestly

14 don't remember signing anything in 2007. And the

15 form I signed out of the command was one of at

16 least 200 pieces of paper that I signed to leave

17 the command. Do you see that?

18 A Yes, sir.

19 Q And was the DD 1847-1 that was signed on January 24

20 of 2007, was that a form that you signed out of the

21 command?

22 A I couldn't tell you. I don't know the

23 nomenclature. We could go back and look at the --

24 I don't know the nomenclatures.

25 Q Now, that document that the -- which was referred

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1 to in Jeh Johnson's letter, which was Exhibit

2 No. 1, the DD 1847 that was signed on January 24 of

3 2007, if you needed to get it, would you have been

4 able to have access to it?

5 A I'm guessing so, yeah.

6 Q And how would you have gone about doing that?

7 A I would have gone to the command, found somebody in

8 our security office, and said, I need this type of

9 form.

10 Q At any point in time before August 30 of 2012, did

11 you make that request?

12 A No.

13 Q You could have, but you didn't. Is that my

14 understanding?

15 A Yeah, yeah, absolutely.

16 Q And the debriefing memoranda that was signed on

17 April 20 of 2012, if you wanted it, could you have

18 had access to it?

19 A I'm sure I could have done the same thing, gone

20 back into the command and said, Hey, I need

21 whatever paperwork. I wouldn't have known the

22 nomenclature again, but it -- if somebody said,

23 Look, I have to see this, this, and this, I could

24 have -- I'm guessing I could have gone back and

25 asked for copies of it.

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1 Q Did you do that?

2 A No.

3 Q This will be -- the next exhibit will be the Second

4 Amended Complaint.

5 (Exhibit 3 was marked for identification.)

6 Q Mr. Bissonnette, do you recall reviewing this

7 complaint before it was filed?

8 A I'm guessing I did, but could I tell you what day

9 or --

10 Q No, I didn't ask you what day.

11 A -- details --

12 Q I just want to know if you reviewed it before it

13 was filed.

14 A I'm assuming I did.

15 Q And I'm not going to ask you for your conversations

16 with your lawyer, but before this lawsuit was filed

17 in Indiana, did you go over the pleadings so that

18 you had looked it over before it was filed?

19 A So did we look over this before it was filed?

20 Q Correct.

21 A I'm assuming so.

22 Q Okay.

23 A I don't remember specifically, but --

24 Q Well, I want to explore that because I want to make

25 sure that I understand it. I don't want to rely on

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1 an assumption. When the case was dismissed in New

2 York --

3 A Okay.

4 Q -- do you recall that it was refiled in Indiana?

5 A Yes.

6 Q We're here in the great state of Indiana; right?

7 A Right.

8 Q And --

9 A I do remember that.

10 Q Yeah. I remember getting here, too. Before the

11 lawsuit was initiated in Indiana --

12 A Okay.

13 Q -- did you go over the pleadings, the complaint

14 that was being filed against Mr. Podlaski and his

15 law firm?

16 A When it was moved from New York to Indiana, did I

17 rereview it at that point?

18 Q Correct.

19 A I don't know that I would have, to be perfectly

20 honest.

21 Q Okay. Well, I want to refer you to a few

22 paragraphs in the complaint. And I want to ask you

23 if you agree to them. First, I want to turn your

24 attention to paragraph 25. And the second

25 sentence -- there's some long sentences, but the

<p style="text-align: right;">Page 37</p> <p>1 second sentence starts, quote, Whatever security 2 clearance Podlaski held, he had no permission from 3 the requisite United States agencies to read the 4 manuscript and thereby learn the classified or 5 otherwise sensitive information within the book, 6 period. Podlaski likewise had no legal right to 7 substitute his judgment for that of agencies of the 8 United States as to what classified or otherwise 9 sensitive information the book might contain. Do 10 you see that? 11 A Yes, sir. 12 Q Do you agree with that statement? 13 A Yes. 14 Q Now, in paragraph 29 of the complaint -- I'll 15 paraphrase some of it just so it's easier for all 16 of us -- it states that Jeh Johnson, who was then 17 the Department of Defense General Counsel, wrote to 18 you to say that, quote, The book violated 19 Bissonnette's legal -- Bissonnette's obligations 20 because he had not submitted the book for a 21 prepublication review and because it contained 22 sensitive information. Do you see that? 23 A Yes, sir. 24 Q And do you agree with that, that that was what 25 Mr. Johnson was telling you in his August 30 of</p>	<p style="text-align: right;">Page 39</p> <p>1 Bissonnette had no power to stop the distribution 2 at this late date. Do you believe that to be a 3 true statement? 4 A Yeah. This was a discussion that we had. Right. 5 We had gotten the letter, sat down. I remember 6 talking with Kevin. They told the whole team and 7 saying, Okay, look, what do we do here? Publisher 8 came back, from my recollection, said, Look, we've 9 already got these books already out in these 10 locations so physically there's no way to 11 physically stop this, right, to turn this off 12 because there could be already books already in 13 these warehouses and they're out there. 14 The other thing I remember hearing from 15 Mr. Podlaski was, Look, the sooner this gets out 16 there, the sooner people read it, the sooner 17 they'll see there's nothing classified in it and 18 you'll be fine. And so based off that, that's what 19 I remember about this, I guess. 20 Q Well, do you believe that you had any contractual 21 obligation at that point that would have prevented 22 you from stopping the release of the book? 23 A Say that one more. 24 Q Yeah. Let me rephrase it because I think I asked a 25 double negative.</p>
<p style="text-align: right;">Page 38</p> <p>1 2012 letter? 2 A Yes. 3 Q Now, I want to turn your attention to paragraph 31 4 of this complaint. And paragraph 31 of the 5 complaint, it states that, At the time of the Jeh 6 Johnson letter, tens of thousands of copies of the 7 book had already been printed with Podlaski's edits 8 and distributed across the country in anticipation 9 of the release date at a cost of millions of 10 dollars. Do you see that? 11 A Yes, sir. 12 Q And you agree with that statement; right? 13 A That they had books already -- 14 Q Printed. 15 A -- printed and mapped out across the states? 16 That's what I was told, yes. 17 Q In fact, just turning to the timetable for the 18 book, by August, all the books had already been 19 bound and shipped to the different warehouses to 20 the best of your knowledge; correct? 21 A I have no idea dates or publishing stuff. Yeah, I 22 assumed how that goes, but I -- I have no knowledge 23 of it, no knowledge of what dates and how that 24 process worked. 25 Q Now, that paragraph goes on to say that,</p>	<p style="text-align: right;">Page 40</p> <p>1 To the best of your knowledge, on that day, on 2 August 30 of 2012 when you got the letter from Jeh 3 Johnson -- 4 A Okay. 5 Q -- was there any reason that you understood 6 contractually with -- that would have prevented you 7 from saying, Hey, stop, we need to submit this book 8 for a prepublication review? 9 A I don't know. I'd have to get into the weeds and 10 go back through that. I don't recall exactly 11 what -- how my contract read. I was still relying 12 on Mr. Podlaski's assurance that what we were doing 13 was fine and that the sooner we got these out, the 14 sooner they'd see there was nothing classified and 15 it would go away. 16 Based off the fact that the books were already 17 out and there was no way to pull them back, that 18 kind of null and voided in a lot of our minds any 19 other moves because no matter what, the books were 20 already there. And again, what I was hearing from 21 my counsel was, look, the sooner the better. 22 They'll read it. They'll see there's nothing in 23 there and you're fine. 24 Q Now, the last -- the next to the last statement in 25 this paragraph says, Had release of the book been</p>

<p style="text-align: right;">Page 41</p> <p>1 abandoned at this late date, Bissonnette would have 2 been in material breach with his contract to Dutton 3 and subject to suit by Dutton. Do you see that? 4 A Yeah. 5 Q Did anyone at Dutton threaten you with a lawsuit? 6 A No. 7 Q Why do you think that you would have been sued by 8 Dutton? 9 A I'm guessing there's some sort of legal -- 10 RANDAL JOHNSTON: Object; lack of foundation. 11 Q Well, do you know why Dutton would have sued you? 12 RANDAL JOHNSTON: Object; lack of foundation. 13 Q Do you know whether Dutton would have sued you? 14 A I don't know. I don't. 15 Q Do you know any reason why Dutton could have sued 16 you? Are you aware of any reason why Dutton could 17 have sued you had you -- 18 A I signed a contract with them -- 19 RANDAL JOHNSTON: I'm going to object. You're 20 interrupting him. 21 THE WITNESS: Okay. 22 MR. FURMAN: That's okay. 23 RANDAL JOHNSTON: Let him finish before you 24 jump in. 25 MR. FURMAN: We're getting familiar --</p>	<p style="text-align: right;">Page 43</p> <p>1 the moment, do you recall whether the contract did 2 say that? 3 A I'd have to reread it. 4 Q At the time -- other than Mr. Podlaski, did you -- 5 and when I'm saying at the time is August 30 of 6 2012 -- did you speak to Mr. Luskin about your 7 contractual rights with Dutton had you decided to 8 submit the book for a review on August 30 of 2012? 9 A Did I speak to Luskin on that Friday about the -- 10 about my rights for publishing the book or not? 11 Q Not just on that day. At any point thereafter. 12 From August 30 onward, did you speak to Mr. Luskin 13 about your rights to submit the book for a 14 prepublication review and how that would have 15 impacted your obligations under the Dutton 16 contract? 17 RANDAL JOHNSTON: Let me interpose an 18 objection. I think the Court has limited the 19 waiver of the privilege through December 31 if I'm 20 remembering correctly. And so to the extent that 21 your question encompasses that time frame, I have 22 no objection. But any discussion they had after 23 December 31, I object on the grounds of the 24 attorney-client privilege. 25 MR. FURMAN: Okay. We'll check the order.</p>
<p style="text-align: right;">Page 42</p> <p>1 RANDAL JOHNSTON: She'll be mad at everybody. 2 MR. FURMAN: That's for sure. 3 BY MR. FURMAN: 4 Q One at a time, as he said. It's not like the 5 English parliament. Let me rephrase the question. 6 RANDAL JOHNSTON: Or presidential debates. 7 MR. FURMAN: Well, yeah, that's true. If you 8 say "wrong" at any point in time, I'm going to 9 reach out and slug you. 10 RANDAL JOHNSTON: I would accept that as being 11 well deserved. 12 Q The question is -- in paragraph 31 of the 13 complaint, it states that, Had the release of the 14 book been abandoned at this late date, Bissonnette 15 would have been in material breach of his contract 16 with Dutton and subject to suit by Dutton. My 17 question to you is, what's the basis for that 18 statement to the best of your knowledge? 19 A My guess is I'd have to go back through the Dutton 20 contract, but there was probably some language in 21 there that said that if I withdraw or didn't 22 produce a manuscript in accordance with their 23 timeline, then they could sue me or come back after 24 me for the book. 25 Q And without having to go back to the contract at</p>	<p style="text-align: right;">Page 44</p> <p>1 Q But for the purpose of this question right now, the 2 time frame of August 30 through December 31 of 2012 3 is fine. 4 A I don't recall any specific conversations. When I 5 brought Luskin in, it was to handle the -- these 6 new claims of criminal stuff. That was Luskin's 7 specialty. I was very much still relying on the 8 team and my current representation to kind of help 9 me move through this. So I don't -- nothing jumps 10 out in my mind where I would have had a 11 conversation with Mr. Luskin about this issue. The 12 reason I brought Luskin in was to handle the issue 13 that had now -- the new issue that had seemed to 14 have materialized. 15 Q And the new issue was the letter from Jeh Johnson; 16 correct? 17 A Right, and the threat of criminal prosecution. 18 Q And just going back to Exhibit No. 1, the -- 19 Mr. Johnson's letter to you states in the second 20 paragraph, last line, quote, Further public 21 dissemination of your book will aggravate your 22 breach and violation of your agreements, period, 23 closed quote. Was that something that you would 24 have discussed with Mr. Luskin? 25 A I don't remember discussing it with Luskin. I</p>

<p style="text-align: right;">Page 45</p> <p>1 absolutely remember discussing it with the team, 2 and that's where we kept coming back to the fact 3 that, A, the books were already -- we passed the 4 point of no return because the books had already 5 been shipped. That was coming from the publisher 6 and then to me; that was a big deal. Right. 7 Second thing I kept hearing from my counsel was 8 that, Hey, look, sooner is not a bad thing. Let's 9 get it out. They'll see there's nothing classified 10 in it. You're fine. 11 Q Now, did you ask Mr. Podlaski to respond to Jeh 12 Johnson? 13 A I don't believe so. 14 Q And did you rely on Mr. Luskin to respond to Jeh 15 Johnson? 16 A Yes. 17 Q And in his letter, was Jeh Johnson not telling you 18 that further dissemination of your book would 19 aggravate and breach -- your breach and violation 20 of your agreements? 21 A Say that one more time. 22 Q Yeah. Just so I understand it, you were relying on 23 Mr. Luskin, not Mr. Podlaski, to respond to Jeh 24 Johnson; correct? 25 A I was -- it was a team, right, whole bunch of</p>	<p style="text-align: right;">Page 47</p> <p>1 A I don't believe so. 2 Q Do you know if Kevin Podlaski ever responded to Jeh 3 Johnson? 4 A I don't know. 5 Q In -- 6 A I know he and Luskin had spoke initially. 7 Q Okay. 8 A Right. Again, everybody -- I wanted everybody 9 talking, everybody coming up with the best course 10 of action because we had just gotten this letter. 11 This was a big, whoa. Let -- we need to be very 12 cautious about what we're doing and let's get the 13 team together and come up with the best decision. 14 Q All right. Well, let -- I just want to stick with 15 the team concept for a moment. Who was part of the 16 team at that point? I'm talking about August 30 of 17 2012. 18 A I mean, off the top of my head, it would have been 19 Mr. Podlaski, myself, Elyse Cheney, Ben Sevier, 20 Dutton, Christine Ball. She's at Dutton, is one of 21 their marketing PR folks. And that probably would 22 have been it at that point. 23 Q And would that team have included Luskin? 24 A Once we hired him, yes. 25 Q Okay. And you would have hired him in response to</p>
<p style="text-align: right;">Page 46</p> <p>1 people. I've operated in SEAL teams. Everybody's 2 got their specialties, your snipers, your 3 breachers, your air guys, whatever. All I saw this 4 was the same thing, was putting another capability 5 on the team and this -- Luskin's capability was to 6 deal with Washington and the threat of criminal 7 stuff. And I was still very highly relying on the 8 previous counsel that I've had up to this point, 9 along with Dutton and everybody else to help 10 formulate the best plan. 11 Q So your reliance would have included Dutton at that 12 point, too, on the best -- 13 A Sure. It was a team, yeah. And, right, I didn't 14 know the books had already been shipped to these 15 locations. Dutton informed us of that, said, Hey, 16 look, we've got a stockpile, but there's also a 17 part of that stockpile that's already been shipped. 18 Q I'm going to ask you about -- 19 A I had to rely on that information. 20 Q I'm going to ask you about that in a second. I 21 just want to focus on who was in charge of 22 responding to Jeh Johnson. 23 A Okay. 24 Q Did you ask Kevin Podlaski to respond to Jeh 25 Johnson?</p>	<p style="text-align: right;">Page 48</p> <p>1 this August 30, 2012, letter? 2 A Sure. 3 Q Did you know Mr. Luskin before you hired him? 4 A No. 5 Q Who hired him on your behalf? 6 A Well, I would have hired -- nobody hired him on my 7 behalf. I hired him. 8 Q I'm sorry. That was a poorly phrased question. 9 How did you -- who introduced you to Mr. Luskin? 10 A I don't even remember. 11 Q Was it someone on that team? 12 A Yeah. It had to have been. I wouldn't have -- 13 yeah. It was somebody in there. I don't know if 14 it was Elyse, Ben. Somebody had some sort of -- I 15 don't know. Maybe it was Kevin Maurer, co-writer. 16 I don't remember where we got the first -- hey, 17 call this guy. He's out of D.C. He's -- you know, 18 he knows the kind of white collar criminal stuff 19 and he's -- and he's well known in the D.C. area, 20 might be helpful for the team, especially if you're 21 getting letters from Jeh Johnson out of D.C. 22 Q Okay. And just so I know who's on the team, where 23 does Mark Fabiani fit in this team? Is he on the 24 team or is he, you know, sort of on the periphery? 25 A I would say on the periphery.</p>

<p style="text-align: right;">Page 49</p> <p>1 Q And how about Peter Ragone?</p> <p>2 A Same thing.</p> <p>3 Q Okay. And those are PR guys; right?</p> <p>4 A Yeah, that I believe were hired by Dutton.</p> <p>5 Q Who's quarterbacking the team?</p> <p>6 A I don't know.</p> <p>7 Q Well, every team has a leader; right?</p> <p>8 A Yeah. I mean, I would say inevitably it's my book</p> <p>9 so I could have run off and done whatever I wanted</p> <p>10 to, but I relied heavily on the advice I was</p> <p>11 getting from a team. I was absolutely in a space</p> <p>12 that I had never operated before in my life, right.</p> <p>13 Q Understood. All teams will have people that have</p> <p>14 different skills, but who did everyone report to?</p> <p>15 Who was leading the team?</p> <p>16 A I don't think there was one -- I don't think there</p> <p>17 was a line in the chart diagram, a typical military</p> <p>18 structure. Everybody knew that it was me as the</p> <p>19 author, right, and everybody knew their different</p> <p>20 positions. And we all kind of cross-talked and</p> <p>21 worked together. I don't -- I don't believe there</p> <p>22 was ever an e-mail or a conversation sent that was,</p> <p>23 Hey, everybody needs to report in to me. It's --</p> <p>24 the way I operated before was, Hey, look, we got a</p> <p>25 lot of talented people. We trust everybody. Let's</p>	<p style="text-align: right;">Page 51</p> <p>1 we had sent -- and I think it was once the --</p> <p>2 somebody caught wind of it at some point that,</p> <p>3 okay, this was happening. And we sent advanced</p> <p>4 copies, I think, to SOCOM and the agency.</p> <p>5 Q What's SOCOM?</p> <p>6 A Special Operations Command.</p> <p>7 Q And what other agency?</p> <p>8 A The CIA.</p> <p>9 Q And who did that on your behalf?</p> <p>10 A I don't exactly recall who mailed them and dropped</p> <p>11 them in the mail, but I know they got sent. I</p> <p>12 think Kevin Maurer might have sent one to SOCOM,</p> <p>13 but I -- don't quote me on that.</p> <p>14 Q What was the purpose of sending advanced copies of</p> <p>15 the book to SOCOM and the CIA?</p> <p>16 A It was, again, in line with the -- Hey, look, let</p> <p>17 them read it. They'll see that there's nothing in</p> <p>18 it. You're fine. This will go away as soon as</p> <p>19 they have a chance to read it. And again, that was</p> <p>20 advice I was getting from Mr. Podlaski.</p> <p>21 Q So are you saying that Mr. Podlaski advised you to</p> <p>22 send the book to the CIA and to SOCOM?</p> <p>23 A I don't remember that exact conversation, but that</p> <p>24 was the piece that I was hearing, is the team's</p> <p>25 coming together to solve this problem based off the</p>
<p style="text-align: right;">Page 50</p> <p>1 come up with the best decision as a group and run</p> <p>2 with it.</p> <p>3 Q And among the issues that you had to grapple with</p> <p>4 on August 30 and the days that followed was dealing</p> <p>5 with Jeh Johnson's admonition that further</p> <p>6 publication or further dissemination of the book</p> <p>7 would aggravate your breach and violation of the</p> <p>8 agreements. Is that something that was on</p> <p>9 everyone's radar?</p> <p>10 A Absolutely.</p> <p>11 Q And who did you expect to handle that?</p> <p>12 A I'd expect the team to come up with the best</p> <p>13 solution. Again, I kept hearing from Dutton</p> <p>14 saying, We can't get the books back. Right. Those</p> <p>15 are shipped. Kept hearing from Mr. Podlaski that,</p> <p>16 Hey, the sooner people saw it, the sooner people --</p> <p>17 this would go away because they'd see that there's</p> <p>18 nothing classified in the book and you're fine. So</p> <p>19 based off of that input and the fact that, okay,</p> <p>20 there was -- there was no way to...</p> <p>21 Q I want to go back. I mentioned earlier -- I want</p> <p>22 to go back to the dissemination of the book before</p> <p>23 August 30 of 2012. Were you aware that advanced</p> <p>24 copies of the book were sent to various agencies?</p> <p>25 A Yes. At some point, I knew there was going to --</p>	<p style="text-align: right;">Page 52</p> <p>1 letter. The piece we kept hearing was from</p> <p>2 Mr. Podlaski was, Okay, look, there's nothing to</p> <p>3 it. The sooner they read it, the sooner they'll</p> <p>4 see and they'll see that we're fine.</p> <p>5 Q And I now just want to make sure that you and I are</p> <p>6 on the same page. I'm referring to before</p> <p>7 August 30 of 2012, before Jeh Johnson's letter to</p> <p>8 you.</p> <p>9 A Okay.</p> <p>10 Q In the summer of 2012, advanced copies of the book</p> <p>11 were sent to various agencies. Are you aware of</p> <p>12 that?</p> <p>13 A Yes, but I don't know the date in which that</p> <p>14 happened. I know -- my understanding is it</p> <p>15 happened right before the Jeh Johnson letter and as</p> <p>16 all this is starting to blow up.</p> <p>17 Q So was it within days, weeks, or months of the Jeh</p> <p>18 Johnson letter where the advanced copies were sent?</p> <p>19 A I can't quote for sure, but I would assume weeks --</p> <p>20 Q And why --</p> <p>21 A -- if that.</p> <p>22 Q Why was the book sent to SOCOM and the CIA before</p> <p>23 the publication?</p> <p>24 RANDAL JOHNSTON: Objection; asked and</p> <p>25 answered.</p>

<p style="text-align: right;">Page 53</p> <p>1 You can answer.</p> <p>2 THE WITNESS: Okay.</p> <p>3 A Why were they sent to --</p> <p>4 Q Yes.</p> <p>5 A -- them? I believe we sent, again, to show those</p> <p>6 agencies, give them a chance to read it and say,</p> <p>7 Hey, look, there's nothing it. You know, mellow</p> <p>8 out.</p> <p>9 Q And you testified --</p> <p>10 A There's nothing to be afraid of.</p> <p>11 Q You testified earlier that someone had gotten wind</p> <p>12 of it. Can you amplify that because I'm not sure I</p> <p>13 understand what you mean?</p> <p>14 A I don't remember exactly. I thought the rumor mill</p> <p>15 was maybe somebody at SOCOM or somebody had heard</p> <p>16 about this book and started asking questions. And</p> <p>17 I don't -- I don't recall exactly how that went</p> <p>18 down.</p> <p>19 Q Well, did you tell anyone that you were writing the</p> <p>20 book?</p> <p>21 A No.</p> <p>22 Q Well, obviously you told Elyse Cheney.</p> <p>23 A Okay. Yes, correct.</p> <p>24 Q So other --</p> <p>25 A Nobody outside that direct team that I've quoted</p>	<p style="text-align: right;">Page 55</p> <p>1 August 30 of 2012, did you ever tell Kevin Podlaski</p> <p>2 about your involvement with Electronic Arts,</p> <p>3 otherwise known as EA?</p> <p>4 A I don't believe so.</p> <p>5 Q At any point in time before August 30 of 2012, did</p> <p>6 you tell Kevin Podlaski about your work in</p> <p>7 connection with the video game that -- called Medal</p> <p>8 of Honor?</p> <p>9 A No, I don't believe so.</p> <p>10 Q And you were compensated for the work that you did</p> <p>11 for those efforts for the video game, Medal of</p> <p>12 Honor; correct?</p> <p>13 A Yes.</p> <p>14 Q And that included some filming in Alabama in front</p> <p>15 of a green screen?</p> <p>16 A Yeah. I mean, we -- all over the states, but yeah.</p> <p>17 Q And so that would have been some performance by</p> <p>18 you, consulting, and also some voiceovers --</p> <p>19 A Yes.</p> <p>20 Q -- for the game itself?</p> <p>21 A Sure.</p> <p>22 Q And that all took place before August 30 of 2012?</p> <p>23 A No, not before. Before and after.</p> <p>24 Q Before and after. Okay.</p> <p>25 A Yeah.</p>
<p style="text-align: right;">Page 54</p> <p>1 earlier, right.</p> <p>2 Q And I want to make sure that I know the team. It's</p> <p>3 Elyse Cheney, Ben Sevier, Christine Ball --</p> <p>4 A Yep.</p> <p>5 Q -- Kevin Podlaski. And then after August 30, it</p> <p>6 would have been Robert Luskin. But I'm focused on</p> <p>7 before August 30.</p> <p>8 A Before Kevin Maurer, I'm sure Kevin Maurer's agent.</p> <p>9 You know, I'd say that's about it.</p> <p>10 Q And so when someone -- when you -- sorry. Rephrase</p> <p>11 all that. Strike all that.</p> <p>12 The rumor mill, how did you learn about the</p> <p>13 rumor mill about your book?</p> <p>14 A I don't even remember. I don't know if it came</p> <p>15 through Kevin Maurer or Mr. Podlaski. I don't know</p> <p>16 where that came from. But if my memory serves me</p> <p>17 correctly, somebody had said, Hey, caught wind of</p> <p>18 this. And that's when it was determined, okay,</p> <p>19 well, let's send them these books so they can read</p> <p>20 it and see that there's nothing in there.</p> <p>21 Q I'm going to ask you more questions about certain</p> <p>22 things involving Electronic Arts, EA, as it's</p> <p>23 known, Medal of Honor, and Zero Dark Thirty. But</p> <p>24 just in general, before we get into the specifics</p> <p>25 of those activities and some others, before</p>	<p style="text-align: right;">Page 56</p> <p>1 Q But did you tell Kevin Podlaski at all about any of</p> <p>2 your involvement with Electronic Arts?</p> <p>3 A Not that I remember.</p> <p>4 Q How about your involvement with the producers of</p> <p>5 Zero Dark Thirty?</p> <p>6 A Not that I remember.</p> <p>7 Q My question is, did you ask -- I'm sorry. Did you</p> <p>8 tell Kevin Podlaski about that?</p> <p>9 A Not that I can remember.</p> <p>10 Q And the Element Group as another issue, did you</p> <p>11 ever tell Kevin Podlaski about your involvement</p> <p>12 with the Element Group prior to August 30 of 2012?</p> <p>13 A No, not specifically. I don't remember.</p> <p>14 Q And did you tell Kevin Podlaski about meetings that</p> <p>15 you had with Spielberg, DreamWorks, HBO, et cetera,</p> <p>16 before August 30 of 2012?</p> <p>17 A Not that I believe -- not that I remember.</p> <p>18 Q And is it fair to say that in one form or another,</p> <p>19 all of the pictures that I just mentioned involved</p> <p>20 some aspects of your career as a Navy SEAL in one</p> <p>21 form or another?</p> <p>22 A Did it involve some aspects of my career?</p> <p>23 Q Yeah.</p> <p>24 A Sure.</p> <p>25 Q Well, in other words, Medal of Honor had to do with</p>

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1 the military and your involvement and your
2 experience as a Navy SEAL; correct?

3 A Sure.

4 Q And your discussions with HBO and Spielberg all
5 would have involved military-related ventures that
6 would have drawn on your experience as a Navy SEAL;
7 correct?

8 A Sure.

9 Q And what am I forgetting? Your involvement with
10 Chief Consulting and also with the Element Group
11 all would have drawn upon your experience as a Navy
12 SEAL; correct?

13 A Sure.

14 Q And you didn't tell that -- any of those activities
15 to Kevin Podlaski?

16 A Not that I remember.

17 Q And in fact, when you interacted with Kevin
18 Podlaski, you didn't tell him your name; correct?

19 A I don't remember that. He needed to vet me, who I
20 was. So, of course, we had to talk real name.
21 I -- we spent a lot of time talking about my
22 security issues that I wanted to abide by. So to
23 say that I didn't tell him my real name, I -- that
24 seems farfetched.

25 Q Okay. Well, at what point in time did -- because

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1 when you first -- let me just rephrase that again.
2 Sorry.

3 When you first were introduced to
4 Mr. Podlaski, you used a pseudonym, correct, Mark
5 Owen?

6 A I don't remember, when we were first introduced,
7 what name I used. But because he was going to be
8 in the position he was, he absolutely would have
9 had access to my real name. And whether I shared
10 that -- I'm assuming I would have shared that with
11 him.

12 Q Do you know when you revealed your name to
13 Mr. Podlaski?

14 A It had to have been very early on.

15 Q Do you recall the method in which you did that?
16 Was it by phone, e-mail?

17 A No.

18 Q If it was by e-mail, would that have been strange?
19 A Maybe. I guess. I don't know why I would have
20 used a fake name with somebody who was trying to
21 help me set up LLCs in order to protect my real
22 name. My understanding was he helped me a lot in
23 trying to hide my identity. To hide your identity,
24 you have to disclose your identity. So to say that
25 I didn't share my identity with him doesn't make

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1 sense to me. Do I remember any specific dates or
2 times or phone calls? No.

3 Q Okay. I understand. Now, at any point in time
4 from the time that you engaged Mr. Podlaski and up
5 and through August 30 of 2012, did you produce to
6 Mr. Podlaski the forms that were attached to Jeh
7 Johnson's letter, the forms that you signed, the
8 nondisclosure signs?

9 A At any point did I give those to Podlaski?

10 Q Yes.

11 A No.

12 Q Do you think it would have been significant or
13 important -- let me rephrase that.

14 Did you think it was important for
15 Mr. Podlaski to know all of your disclosure
16 obligations with the Navy and other agencies?

17 A Sure. And if at any point he would have said,
18 Look, I have to see this, this, and this, I would
19 have gladly gone back and said, Look, I need to see
20 this, this, and this. But quite simply, those
21 questions were never asked. We talked a lot about
22 classification and what was signed and what -- and
23 "I don't remember" is a lot of it. I'm not a
24 numbers/details/dates guy. I'm not. I never have
25 been. And so had he said, Look, I need this

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1 document, this number or I can't give you sound
2 advice, I would have very easily gone and got that.

3 Q Your rank at the time that you discharged was --
4 was it command master chief; is that correct?

5 A Senior chief.

6 Q Senior chief. And is that the highest rank that an
7 enlisted SEAL can achieve?

8 A The next rank higher, the E-8 master -- or E-9
9 master chief. I was an E-8 senior chief.

10 Q So you were just below the top. And --

11 RANDAL JOHNSTON: You have to answer out loud.

12 A Oh. Yes. Sorry.

13 Q And on Operation Neptune Spear, you had a command
14 position; correct?

15 A I was -- well, I was one of the team leaders, yes.

16 Q So not to be -- I can understand being
17 self-deprecating or being modest, but wouldn't that
18 position require you to be a very detailed person?

19 A Sure.

20 Q And wouldn't your fellow SEALs that are under your
21 command rely on that trait of being a detailed
22 operator?

23 A I don't think they rely on my details. Right. If
24 I'm missing something, they can -- I've worked for
25 plenty of leaders that were not the best in certain

<p style="text-align: right;">Page 61</p> <p>1 areas. And again, you get the team and you help</p> <p>2 fill in the holes for other guys. Were they</p> <p>3 reliant on my ability to remember details? I</p> <p>4 wouldn't say reliant. Was that an important part</p> <p>5 of the team? Sure. Everybody should have that.</p> <p>6 Q Now, in Exhibit No. 3, as an attachment, there is a</p> <p>7 retainer agreement. Do you see that?</p> <p>8 A What page? Is it at the end?</p> <p>9 Q It's at the very end, yeah, signed with Carson</p> <p>10 Boxberger.</p> <p>11 A Yes.</p> <p>12 Q And that's dated January 17 of 2012?</p> <p>13 A Yes, sir.</p> <p>14 Q Now, this retainer agreement was signed under seal.</p> <p>15 Do you recall that?</p> <p>16 A Yes.</p> <p>17 Q Of course, it has your name on the very first page.</p> <p>18 I want to refer you to page 3 of the retainer</p> <p>19 agreement. And it says, Client responsibilities.</p> <p>20 Do you see that? It's towards the bottom of the</p> <p>21 page.</p> <p>22 A Yep.</p> <p>23 Q And before you signed the agreement, you would have</p> <p>24 read it; correct?</p> <p>25 A Sure.</p>	<p style="text-align: right;">Page 63</p> <p>1 Mr. Podlaski's representation of you?</p> <p>2 A Yes. And again, at any point --</p> <p>3 Q I'm just asking you if you think it was relevant.</p> <p>4 A Sure.</p> <p>5 Q And you appreciate that it was relevant; correct?</p> <p>6 A Yeah.</p> <p>7 Q And did you provide Mr. Podlaski with those</p> <p>8 documents? Yes or no?</p> <p>9 A No.</p> <p>10 Q Okay. We touched on Operation Neptune Spear, and I</p> <p>11 want to go back to it. What was your rank at the</p> <p>12 time of Operation Neptune Spear?</p> <p>13 A I don't know if I was an E-7 or an E-8 at that</p> <p>14 point, but --</p> <p>15 Q What does that mean?</p> <p>16 A Chief or senior chief. I -- I made E-8 right</p> <p>17 before I got out so I wasn't even getting paid for</p> <p>18 it. So in a lot -- if my -- if you look at my</p> <p>19 DD 214, it says I got out as a chief, not an E-7,</p> <p>20 not an E-8. I had made E-8, but I wasn't getting</p> <p>21 paid for it yet. The Navy has these weird terms of</p> <p>22 when they pay you and when you're actually put on</p> <p>23 the next rank. So yeah, E-7, E-8.</p> <p>24 Q For Operation Neptune Spear, were you paid by the</p> <p>25 Navy or the CIA?</p>
<p style="text-align: right;">Page 62</p> <p>1 Q And just to -- you know, in general terms, in</p> <p>2 connection with this retainer, the nondisclosure</p> <p>3 agreements you signed, and other documents you may</p> <p>4 have signed, do you appreciate that when you sign</p> <p>5 something, that you're bound to what's written in</p> <p>6 the contract?</p> <p>7 A Yes.</p> <p>8 Q Whether it's legal or not is one thing, but in</p> <p>9 terms of just the contract itself and what you're</p> <p>10 signing, you understand that your signature means</p> <p>11 that you've read and understand the document to the</p> <p>12 best of your knowledge?</p> <p>13 A Yes.</p> <p>14 Q And the January 17, 2012, retainer on page 3 under</p> <p>15 Client Responsibilities states in the second</p> <p>16 sentence, quote, You also agree to cooperate fully</p> <p>17 with us and to provide us with all information</p> <p>18 known by or available to you that may be relevant</p> <p>19 to your matters or that may aid in us -- may aid us</p> <p>20 in representing you in these matters, closed quote.</p> <p>21 Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Do you believe that the nondisclosure agreements</p> <p>24 that you signed with the Navy that were attached to</p> <p>25 the Jeh Johnson letter in Exhibit 1 was relevant to</p>	<p style="text-align: right;">Page 64</p> <p>1 A My paycheck my whole career was from the Navy.</p> <p>2 Q Okay. And was there anyone at the CIA that you had</p> <p>3 to report to?</p> <p>4 A Me? No.</p> <p>5 Q With respect to Operation Neptune Spear.</p> <p>6 A Me? Absolutely not. I worked with my team.</p> <p>7 Q And who did you report to in connection with</p> <p>8 Operation Neptune Spear?</p> <p>9 A My master chief.</p> <p>10 Q Okay. And are you in a position to tell me who</p> <p>11 that is?</p> <p>12 RANDAL JOHNSTON: No.</p> <p>13 A I'd rather not name names.</p> <p>14 MR. FURMAN: I'll leave a space for that. I</p> <p>15 don't know that, you know, we'll need to fill that</p> <p>16 in. I have to think that through. So just leave a</p> <p>17 space there.</p> <p>18 Q Was that master chief -- was he stateside, or was</p> <p>19 he on the helicopters into Pakistan?</p> <p>20 A He was my squadron master chief before the mission,</p> <p>21 had been for the past year, year-ish, and would be</p> <p>22 my master chief after the mission --</p> <p>23 Q Okay.</p> <p>24 A -- and deployed with us.</p> <p>25 Q So he was deployed with you?</p>

<p style="text-align: right;">Page 65</p> <p>1 A Yeah, yeah, the whole way. And I'm not sure if we 2 can take a two-minute -- 3 Q Let's do it. 4 A -- bathroom break -- 5 Q Sure. 6 A I'll be quick. 7 (A brief recess was taken.) 8 RANDAL JOHNSTON: I've looked at Exhibit 1, 9 and I will ask that in all the copies of these 10 documents that you likewise make the same -- not 11 corrections but deletions or mark-outs to ensure 12 the confidentiality of Mr. Bissonnette. And the 13 places I see his Social Security number is on the 14 top of page 2 of the exhibit, the top of page 3 of 15 the exhibit, the middle of page 6, and the middle 16 of page 7, and the middle of page 8 of the exhibit. 17 And I have with the black Sharpie provided by the 18 court reporter marked out all of those on the 19 official copy. 20 MR. FURMAN: Okay. Yeah, that's fine. No 21 objection whatsoever. 22 BY MR. FURMAN: 23 Q Mr. Bissonnette, I want to ask you questions that 24 relate to the handling of classified information. 25 I'm going to be asking you these questions in the</p>	<p style="text-align: right;">Page 67</p> <p>1 training modules, Hispanic awareness month 2 training, you know, whatever it is. There's 3 hundreds of them that they cycle through. And so 4 I'm guessing there's some sort of -- they would 5 have put it in there if there was some sort -- if 6 there was nontactical training to be conducted, it 7 was conducted through that little portal-type 8 thing. 9 Q And when would that portal be? Would it be at the 10 command center? 11 A I don't know. It was on my computer at work. 12 Q So at work? 13 A Yeah, yeah. 14 Q So you wouldn't do this at home -- 15 A No. 16 Q -- over a cup of coffee? You would be at the 17 command center in Virginia Beach presumably before 18 a computer screen reviewing whatever is the subject 19 of the day? 20 A That's it. 21 Q And do you recall the handling of classified 22 information being a subject that you had to be 23 trained on? 24 A I don't recall specifically a training module, but 25 I'm sure that's where they would have put it had</p>
<p style="text-align: right;">Page 66</p> <p>1 way that a layperson would ask them because I'm a 2 layperson when it comes to this. So if for 3 whatever reason the way that I ask these questions 4 you don't understand, just let me know. 5 A Okay. 6 Q But in your career as a Navy SEAL, would you have 7 had access to classified information? 8 A Sure. 9 Q And how would you receive that information? In 10 other words, what would be the process? Would it 11 be a meeting in a classroom? 12 A Yeah, most of the time. The way I handled it -- I 13 didn't deal with a lot of paperwork stuff. It was 14 more -- you know, more tactical level information. 15 And that would have been in more of a briefing 16 setting. 17 Q Did you at any point in your career receive 18 training on the handling of classified information? 19 A I'm sure I would have. 20 Q And what did that consist of? 21 A I don't remember specifically. Probably some sort 22 of online training piece. 23 Q Meaning at home, you would just watch a movie? 24 A No. At the command on the computers, right, they 25 turn off your e-mail if you didn't do the monthly</p>	<p style="text-align: right;">Page 68</p> <p>1 they had one. 2 Q And what was your understanding of how you in your 3 role as a SEAL would have been responsible for the 4 handling of classified information? Did you 5 receive any instruction on that? Let me break it 6 down. Let me break it down. 7 And forgive me if I am naive enough not to 8 know the answer to this, but is it proper to use 9 the term SEAL Team 6 as opposed to DEVGRU? 10 A Guys around the command use Team 6 all the time. 11 Q Okay. And SEAL Team 6, is that different from any 12 other aspect of the Navy? 13 A It's a different unit. It's just like Team 5 or 14 Team 4 or Team 3. They're all different units. 15 Q What's the difference between Team 5 and Team 6? 16 A Different focus, little bit different focus. 17 Q All right. What's the difference in the focus? 18 A I believe a lot of that is classified. And I 19 wouldn't want to say anything out of bounds. 20 Q Okay. Well, how do you know it's classified? 21 A Because through my dealings with the government, 22 they've nitpicked the hell out of a lot of little 23 things and even referring to that type of stuff 24 could be considered sensitive. And I'd rather not 25 discuss that if at all possible.</p>

<p style="text-align: right;">Page 69</p> <p>1 Q Okay. But before August 30 of 2012, did you know 2 that there was a difference between Team 5 and 3 Team 6? 4 A Sure. 5 Q And did you understand that -- all right. 6 And I take it that your response if I asked 7 you as of August 30 of 2012 would be the same. If 8 I asked you the difference between Team 5 and 9 Team 6, you're not in a position to tell me? 10 A Correct. 11 Q Okay. Now, with Operation Neptune Spear, in what 12 form did you receive the briefings about the 13 operation itself, how it was going to be conducted, 14 location of Osama bin Laden in Abbottabad, 15 et cetera? Was it verbal? Was it -- 16 A Every brief I got was verbal. Now, again, the 17 first day that the command -- the -- our group of 18 guys went down to North Carolina and got the big 19 brief from whoever -- the CIA folks who said, Hey, 20 look, here's the target, here's what's going on, I 21 was not there that day. I showed up the next day. 22 Every brief I had following that was all verbal. 23 Q And was it your understanding that the information 24 you were receiving was top secret? 25 A Again, as I said earlier, I never really</p>	<p style="text-align: right;">Page 71</p> <p>1 level that we could have that conversation. 2 Q And how about turning to Operation Neptune Spear. 3 In the days that you returned after May 2 of 2012, 4 what was your understanding of your ability to 5 speak about the details of that raid with someone 6 outside of the SEAL community, for example, me? 7 Would you have been allowed to discuss it with me 8 on May 3? 9 A You brought up details. Right. There's a 10 difference between sharing specific details and, 11 you know -- my family, through me being gone, me 12 coming home, knew that I was involved in it. So 13 could they say, Hey, were you involved in that? 14 Yeah, absolutely, I was involved in it. But 15 getting into specific details, it was probably 16 understood that -- yeah. 17 Q Understood what? 18 A That, yeah, you don't talk about a lot of the 19 details. 20 Q And where did you get that understanding from? 21 A It's very confusing because you see a lot of the 22 higher-ups and different people disclosing 23 different things. But at our level, it's in your 24 own head because, again, nobody's briefed you on 25 exactly what you can and can't say. So it's kind</p>
<p style="text-align: right;">Page 70</p> <p>1 classified -- yeah, I would say, yes, this is 2 important stuff to keep quiet. Did I put a 3 classification level next to it? No. I don't 4 think I ever did that for my whole career. 5 Q Was there an understanding among the members of 6 SEAL Team 6 that you were not to discuss your 7 activities with people outside of the team? 8 A Well, what type of activities? 9 Q Well, your operational activities. 10 A I wouldn't say there was an understanding that we 11 never talked about anything, no. 12 Q For example, after the Captain Phillips raid which 13 was in the news, was there an understanding that 14 you were not to discuss that operation with press, 15 family, friends? 16 A Nobody ever said, Do not brief, do not say any -- 17 never briefed in that way whatsoever. 18 Q Well, how about your own sense of your duties as a 19 member of the SEAL Team 6? 20 A Sure. 21 Q After the Captain Phillips raid, did you feel, 22 again, based on your own sense of your obligations, 23 that you were at liberty to discuss it, the 24 operation itself, say, with me? 25 A To a certain degree, yeah. I would think there's a</p>	<p style="text-align: right;">Page 72</p> <p>1 of -- it's how I go about business today. Right. 2 I've briefed. I have access to this classified 3 information. I don't just say it. I use my 4 opinion to share that information as I see fit to 5 some degree. 6 Q So it's your judgment on what level of detail you 7 could reveal about Operation Neptune Spear. Is 8 that what you're saying? 9 A No. I'm just saying I was never briefed on 10 specific areas what we could and could not talk 11 about. 12 Q So, for example, a week after May 2 -- let's call 13 it May 9, 2012. And if I were to ask you who shot 14 Osama bin Laden -- I just met you on the street -- 15 would you have been in a position to tell me that? 16 A Again, nobody ever told us what we could or could 17 not say. Now, I would tell you I'm not going to 18 tell you who shot him because that's not important. 19 And I know that individual, and he wouldn't want 20 his name out there. 21 Q And that would be the reason why you wouldn't tell 22 me because -- is that the only reason you wouldn't 23 tell me? 24 A No. Again, we were never briefed, so you have to 25 use your best judgment. Right. We never -- we</p>

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1 were never briefed of, Hey, do -- say this. You
 2 can't say this. You -- nobody ever said any of
 3 that to us.
 4 Q So I understand what you're saying, is it your
 5 testimony that you never had any official
 6 instruction on the handling of classified
 7 information either before or after an operation?
 8 A Are you talking specifically for the bin Laden
 9 mission?
 10 Q Well, let's -- we can refer specifically to
 11 bin Laden.
 12 A I don't think I've ever been on a mission where
 13 they gave us some sort of security brief ahead of
 14 time or afterwards saying what we could or could
 15 not say.
 16 Q All right. So I want to be clear because you had
 17 prefaced your answer just on bin Laden, but then
 18 you referenced other programs. Let's just deal
 19 with bin Laden first. Let's deal with Operation
 20 Neptune Spear. Is it your testimony that you
 21 received no official instruction on the handling of
 22 classified information that relates to Operation
 23 Neptune Spear before and after the operation was
 24 conducted?
 25 A No specific additional intel briefs or

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1 classification briefs before or after that mission.
 2 Q And I'm not asking just about briefs. I'm asking
 3 about instructions from anyone at -- from the
 4 Department of Defense, the Central Intelligence
 5 Agency.
 6 A Well, couldn't you say these briefs here are
 7 instructions?
 8 Q Well, do you believe that they are? And you're
 9 referring to the DD 1847.
 10 A Right, right, the nondisclosures.
 11 Q Nondisclosure agreements.
 12 A Yeah. If you're asking if that's training, yeah,
 13 I'm sure plenty of people could argue that that is
 14 training and a briefing on dos and don'ts.
 15 Obviously I said I don't remember all the details
 16 of all of those. But if you're talking specific
 17 additional briefs outside of the NDAs, no, I don't
 18 remember ever -- and that was -- a lot of the
 19 conversation back and forth was, Hey, do you
 20 remember signing this? Do you remember signing
 21 that? No, I don't.
 22 Q And when you refer to these, we're referring to the
 23 DD 1847 that was signed in January of -- on
 24 January 24 of 2007. Was that the only instruction
 25 that you would have received about the handling of

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1 classified information?
 2 A These forms here?
 3 Q Yes.
 4 A That I can remember.
 5 Q And is it your understanding that the documents not
 6 only speak about classified information but any
 7 disclosure that relates to or otherwise involves
 8 classified information? Do you understand that?
 9 A Can you say that again? I'm sorry.
 10 Q Yeah. And I want to be specific, so we're talking
 11 about a very specific document. So let's refer
 12 back to Exhibit 1 and the DD 1847 that was signed
 13 on January 24 of 2007. So I'm showing you the
 14 document itself.
 15 A Okay.
 16 Q At paragraph three -- we went through it before,
 17 but I'll read it again. Quote, in the middle of
 18 the paragraph, I understand that it is -- that it
 19 is my responsibility to consult with appropriate
 20 management authorities in the department or agency
 21 that last authorized my access to SCI whether or
 22 not I am still employed by or associated with that
 23 department or agency or a contractor thereof in
 24 order to ensure that I know whether information or
 25 material within my knowledge or control that I have

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1 reason to believe might be SCI or related to or
 2 derived from SCI is considered by such department
 3 or agency to be SCI. Do you see that?
 4 A Yes.
 5 Q And you see that the reference there is that -- and
 6 I'm paraphrasing now -- is that you were
 7 responsible to consult with anyone within
 8 management, either within the Department of Defense
 9 or the CIA, that relates to the disclosure of SCI,
 10 whether or not it's SCI or relates to -- or is it
 11 derived from SCI? Do you understand that?
 12 A Yes.
 13 Q So it's broader than simply just whether it's
 14 classified information. It's whether it's derived
 15 from or relates to classified information; correct?
 16 A Right.
 17 Q Correct?
 18 A Yes.
 19 Q And No Easy Day, the title is, A Firsthand Account
 20 of the Raid on Osama bin Laden. I think that --
 21 I'm paraphrasing a bit, but essentially the cover
 22 of the book is describing the operation that led to
 23 the assassination and killing of Osama bin Laden;
 24 correct?
 25 A I wouldn't call it an assassination, but okay.

<p style="text-align: right;">Page 77</p> <p>1 Q The killing.</p> <p>2 A Sure.</p> <p>3 Q And you're right. And I'm glad you corrected me.</p> <p>4 Did you understand that the book itself in</p> <p>5 describing the activities that led to the killing</p> <p>6 of Osama bin Laden would have related to</p> <p>7 information that would fall within an SCI or a</p> <p>8 special access program?</p> <p>9 A I didn't know where it would fall. I knew it</p> <p>10 was -- it was information that could be connected</p> <p>11 to a lot of different places. So it was very</p> <p>12 important to me to make sure we did it the right</p> <p>13 way.</p> <p>14 Q So you appreciated at the time that you were</p> <p>15 preparing the book that it would have related to a</p> <p>16 very sensitive operation that could very well have</p> <p>17 been a special access program; correct?</p> <p>18 A Yes.</p> <p>19 Q And I might have asked you this.</p> <p>20 MR. FURMAN: And Randy, I know you'll object.</p> <p>21 Q But do you know whether or not Operation Neptune</p> <p>22 Spear was a special access program?</p> <p>23 A I don't know.</p> <p>24 Q And to this day, do you know whether it is or not?</p> <p>25 A I don't believe it was.</p>	<p style="text-align: right;">Page 79</p> <p>1 A Couple weeks maybe.</p> <p>2 Q And did you receive any instructions from anyone</p> <p>3 about the handling of information that you obtained</p> <p>4 during Operation Neptune Spear?</p> <p>5 A Not that I remember.</p> <p>6 Q Well, how about your camera, for example?</p> <p>7 A What about my camera?</p> <p>8 Q Well, I understand that you took -- you took or you</p> <p>9 had possession of a camera that took pictures of</p> <p>10 Osama bin Laden's body after he was killed --</p> <p>11 A Yeah.</p> <p>12 Q -- is that correct?</p> <p>13 Yes?</p> <p>14 A Yeah.</p> <p>15 Q And did you turn over that material to the CIA or</p> <p>16 the military?</p> <p>17 A Yep.</p> <p>18 Q And were you given any instructions on the handling</p> <p>19 of that information thereafter?</p> <p>20 A No.</p> <p>21 Q Did you understand that a photograph of the corpse</p> <p>22 of Osama bin Laden is a classified piece of</p> <p>23 information?</p> <p>24 A I didn't know that it would be classified that, but</p> <p>25 I assumed that that was something that was --</p>
<p style="text-align: right;">Page 78</p> <p>1 Q And what makes you say that?</p> <p>2 A Because when I sat down with the folks at the DoD,</p> <p>3 they've shown me the same paperwork you've shown me</p> <p>4 and not some extra special piece of paper that</p> <p>5 says, Hey, look, this was some sort of extra</p> <p>6 special category. So yeah. No, I don't believe we</p> <p>7 did.</p> <p>8 Q Now, after Operation Neptune Spear, were you</p> <p>9 debriefed by anyone at the military, the Navy, the</p> <p>10 CIA about what took place in the operation?</p> <p>11 A Debriefed?</p> <p>12 Q Debriefed, yes.</p> <p>13 A The agency came down to the command and showed us</p> <p>14 footage of the helo crash, talked some big picture</p> <p>15 stuff. But would I call it an in-depth debrief?</p> <p>16 No. We did our debrief overseas, sent that up.</p> <p>17 And that was about it.</p> <p>18 Q Now, the -- and that took place stateside; correct?</p> <p>19 A Which debrief?</p> <p>20 Q The big picture debrief.</p> <p>21 A Yeah. Where the agency was involved? Stateside.</p> <p>22 Q And that was in North Carolina or was that in --</p> <p>23 A Virginia -- our base.</p> <p>24 Q In Virginia. Okay. And how long after Operation</p> <p>25 Neptune Spear?</p>	<p style="text-align: right;">Page 80</p> <p>1 needed to be pretty well protected, yeah.</p> <p>2 Q Well, aside from well protected -- I'm sorry if I'm</p> <p>3 interrupting you. Mr. Bissonnette, would you have</p> <p>4 considered it -- the photograph of the body of</p> <p>5 Osama bin Laden after he was killed -- to have been</p> <p>6 something that would be classified, top secret</p> <p>7 information?</p> <p>8 A I don't know what category it would have been, but</p> <p>9 yeah, I would assume that the government -- I knew</p> <p>10 the government wasn't releasing it. And I did</p> <p>11 not -- when we got back, I didn't know I still had</p> <p>12 the photo. Right. So you get done with the</p> <p>13 mission. You turn in your camera. The CIA takes</p> <p>14 your camera. They download all the photos. They</p> <p>15 delete the photos. They hand you back your camera.</p> <p>16 I put my camera back in the gear. Months later</p> <p>17 after I'm out of the Navy -- the Navy doesn't take</p> <p>18 my camera back. I open my camera and it's got</p> <p>19 photos on it.</p> <p>20 Q Now, in other operations that you've conducted,</p> <p>21 were you also the cameraman on all those as well?</p> <p>22 A Yeah. Everybody carries a camera, every single</p> <p>23 person.</p> <p>24 Q And is that the standard approach, that you would</p> <p>25 turn over your camera to --</p>

<p style="text-align: right;">Page 81</p> <p>1 A Standard operating procedure is you return from the</p> <p>2 raid. You hand your camera over. The camera guy</p> <p>3 downloads all the photos, deletes your stuff, hands</p> <p>4 you back all your cameras. You put them back in</p> <p>5 your gear, and you go about your business.</p> <p>6 Q Is what happened here in Operation Neptune Spear</p> <p>7 that the photograph of the corpse of Osama bin</p> <p>8 Laden was not deleted from your camera? Is that</p> <p>9 what happened?</p> <p>10 A That's it.</p> <p>11 Q The answer was that --</p> <p>12 A Yes.</p> <p>13 Q And did anybody -- and it doesn't have to be anyone</p> <p>14 that is your boss. It could have been any of your</p> <p>15 colleagues -- have any discussions about Operation</p> <p>16 Neptune Spear about how to handle the information</p> <p>17 that you learned during the raid and how to keep it</p> <p>18 confidential?</p> <p>19 A Not that I recall.</p> <p>20 Q After the bin Laden raid and before, say, December</p> <p>21 of 2011, were you involved in any other military</p> <p>22 operations?</p> <p>23 A Training only, training only.</p> <p>24 Q When did you first learn that Kathryn Bigelow and</p> <p>25 Mark Boal were working on a movie that related to</p>	<p style="text-align: right;">Page 83</p> <p>1 stage. Hey, sir, meeting the commanding officer of</p> <p>2 Team 6. I've got to introduce you to a couple</p> <p>3 people. Goes, gets Kathryn Bigelow, Mark Boal,</p> <p>4 brings them back over. Hey, they're going to make</p> <p>5 a movie about you guys right there at Langley.</p> <p>6 They came back. We're obviously upset about that.</p> <p>7 I kept in contact with the female CIA officer</p> <p>8 and --</p> <p>9 Q Who's she?</p> <p>10 RANDAL JOHNSTON: Don't answer that.</p> <p>11 A I'm not saying names there. Sorry.</p> <p>12 Q But it's a female CIA operative?</p> <p>13 A That -- the movie's about. The reason the movie</p> <p>14 was about her was because Panetta had authorized</p> <p>15 her to sit down and talk with the producers.</p> <p>16 Q Okay. We'll leave a line, and we'll deal with her</p> <p>17 identity at another date. Let's call her Ms. X for</p> <p>18 now.</p> <p>19 A Sure.</p> <p>20 Q Was Ms. X at the meeting in North Carolina when you</p> <p>21 first learned about the bin Laden raid?</p> <p>22 A I wasn't there the first day so I can't speak for</p> <p>23 her.</p> <p>24 Q Second day.</p> <p>25 A She was there the whole -- most of the planning</p>
<p style="text-align: right;">Page 82</p> <p>1 the Operation Neptune Spear?</p> <p>2 A Within three to four weeks of the raid.</p> <p>3 Q How did you learn that?</p> <p>4 A The female CIA officer -- well, actually, no. Back</p> <p>5 up. She mentioned -- I don't know if maybe</p> <p>6 afterwards -- there was a handful of guys that went</p> <p>7 to Leon Panetta's retirement ceremony. He's</p> <p>8 leaving the CIA, going over to SecDef. We just got</p> <p>9 bin Laden. A whole bunch of SEALs were there from</p> <p>10 the raid. He gives his great retirement speech.</p> <p>11 Q And you were there?</p> <p>12 A I was not. My commanding officer was there. SEAL</p> <p>13 Team 6 commander was there, whole bunch of guys who</p> <p>14 were on the raid. My -- the enlisted -- the worker</p> <p>15 bees were out training already. Head shed was</p> <p>16 there. Immediately following his speech --</p> <p>17 Q Head shed, right?</p> <p>18 A The commander of SEAL Team 6.</p> <p>19 Q Got you.</p> <p>20 A Commander of our squadron, master chief of our</p> <p>21 squadron, trip chief of our squadron. There was</p> <p>22 some other operators there. I didn't make it,</p> <p>23 along with a handful of us, because we were</p> <p>24 training. They come back and they say, You won't</p> <p>25 believe what just happened. Panetta gets off the</p>	<p style="text-align: right;">Page 84</p> <p>1 portion.</p> <p>2 Q Okay. And did she ever tell you about the</p> <p>3 classification level of the operation itself?</p> <p>4 A No.</p> <p>5 Q Okay. Now I'm fast forwarding to Leon Panetta's</p> <p>6 retirement party. And you learned from who that</p> <p>7 the source of the information was Ms. X for the</p> <p>8 movie?</p> <p>9 A We knew he -- the Panetta piece and then we all</p> <p>10 became friends with the female and several of the</p> <p>11 other people we had worked together on this. We</p> <p>12 worked together for, what, close to a month. And</p> <p>13 she had said, Yeah, I'm being authorized along with</p> <p>14 the interpreter who was on the mission to go out</p> <p>15 and talk with producers.</p> <p>16 Q Now, she told you that she was authorized?</p> <p>17 A Uh-huh.</p> <p>18 Q And she received that authorization from the</p> <p>19 military?</p> <p>20 A From the CIA.</p> <p>21 Q And how did you feel about that?</p> <p>22 A Par for course.</p> <p>23 Q In what sense is it par for the course?</p> <p>24 A We saw it on the Captain Phillips rescue. Right.</p> <p>25 You see the politicians and people at certain</p>

<p style="text-align: right;">Page 85</p> <p>1 levels taking advantage of whatever they want for</p> <p>2 their gain.</p> <p>3 Q And what you mean by "their gain" is that the</p> <p>4 politicians will use exploits by operators like you</p> <p>5 and use it for their political advantage. Is that</p> <p>6 what you mean?</p> <p>7 A Sure.</p> <p>8 Q And was it a concern of yours when you learned that</p> <p>9 Kathryn Bigelow and Mark Boal were talking to Ms. X</p> <p>10 that the politicians were going to take credit for</p> <p>11 Operation Neptune Spear?</p> <p>12 A I think it wasn't a direct concern. I just knew it</p> <p>13 was coming. I mean, we had laughed and joked about</p> <p>14 it as a team beforehand saying, Hey, if we pull</p> <p>15 this off, you know they'll make movies. You know</p> <p>16 they'll do all this stuff about it.</p> <p>17 Q And when they do all the stuff and they make</p> <p>18 movies, they're making money off of it; right?</p> <p>19 A Sometimes, yeah; sometimes, no.</p> <p>20 Q Did Kathryn Bigelow and Mark Boal get in touch with</p> <p>21 you?</p> <p>22 A Uh-huh.</p> <p>23 RANDAL JOHNSTON: Yes or no?</p> <p>24 A Yes. Sorry.</p> <p>25 Q When did they first get in touch with you?</p>	<p style="text-align: right;">Page 87</p> <p>1 Ground Zero. And knew I was getting a divorce at</p> <p>2 that point and knew it was time to hang up the</p> <p>3 guns.</p> <p>4 Q And was there anything, you know, that triggered</p> <p>5 that desire to, as you say, hang up the guns?</p> <p>6 A I had talked about it my last deployment while we</p> <p>7 were overseas. My guys all knew I was done with my</p> <p>8 team leader time. I would be moving into different</p> <p>9 positions throughout my career. I joined to be the</p> <p>10 guy on the ground, and that's what I've done my</p> <p>11 whole career. And I was having family issues at</p> <p>12 home. That was not going well. So I had done 13</p> <p>13 straight deployments and just seemed like it was</p> <p>14 time to get out.</p> <p>15 Q Mark Boal had contacted you before that, though,</p> <p>16 before your trip to New York; right?</p> <p>17 A I don't remember the exact timing of it.</p> <p>18 Q When was your trip to New York?</p> <p>19 A I don't remember off the top of my head.</p> <p>20 Q Was it before or after Christmas?</p> <p>21 A I want to say before, but I -- I know we had a</p> <p>22 trip -- we had a jump trip for our squadron in</p> <p>23 December, and that's where I told my head shed that</p> <p>24 I was getting out. So I don't know where the</p> <p>25 New York piece fell, before or after that, but</p>
<p style="text-align: right;">Page 86</p> <p>1 A I don't remember the exact dates. It was after I</p> <p>2 knew the female had gone out, Mrs. X had gone out</p> <p>3 and talked to them.</p> <p>4 Q And how did they reach out to you?</p> <p>5 A Cell phone, I think.</p> <p>6 Q How did they have your cell phone number?</p> <p>7 A Probably through Mrs. X.</p> <p>8 Q So Mrs. X had your phone number, cell phone number.</p> <p>9 And who was it that got in touch with you? Was it</p> <p>10 Mark Boal or Kathryn Bigelow?</p> <p>11 A Mark.</p> <p>12 Q And what did you talk about with Mark?</p> <p>13 A He wanted to see -- there in -- somewhere in that</p> <p>14 time line is when I decided to leave the Navy. He</p> <p>15 was wondering if I'd be curious of consulting on</p> <p>16 the movie.</p> <p>17 Q When was that so I get a date?</p> <p>18 A November, December, January, in there. I don't</p> <p>19 even remember.</p> <p>20 Q It was after the summer of 2011?</p> <p>21 A Yeah.</p> <p>22 Q When did you decide to -- that you wanted to leave</p> <p>23 the military?</p> <p>24 A Decemberish, somewhere in there. I went to</p> <p>25 New York City. Never been to New York before.</p>	<p style="text-align: right;">Page 88</p> <p>1 that -- I informed them in December that I was --</p> <p>2 my intent of finishing my enlistment and getting</p> <p>3 out.</p> <p>4 Q Now, so I want to use your terminology. And I want</p> <p>5 to make sure it's right. Head shed so it's one</p> <p>6 word; right?</p> <p>7 A Sure.</p> <p>8 MR. FURMAN: You got that; right?</p> <p>9 Q And where was the jump training session? Where was</p> <p>10 it?</p> <p>11 A Arizona.</p> <p>12 Q And was there, you know, anything that triggered</p> <p>13 your decision in Arizona to inform your head shed</p> <p>14 that you were leaving?</p> <p>15 A My enlistment was up. I was either going to have</p> <p>16 to reenlist here very soon within the next several</p> <p>17 weeks or transition out.</p> <p>18 Q How did your head shed take that news?</p> <p>19 A Sat him down, told him, Look, I had a great career.</p> <p>20 My time is up. And I'm going to move on and out.</p> <p>21 Q And by that time, you had already known that Ms. X</p> <p>22 was speaking to Kathryn Bigelow; correct?</p> <p>23 A I believe so.</p> <p>24 Q And had you already spoken to Mark Boal or Kathryn</p> <p>25 Bigelow about being involved as a technical advisor</p>

<p style="text-align: right;">Page 89</p> <p>1 to Zero Dark Thirty?</p> <p>2 A I don't know the exact timeline of that, but I</p> <p>3 would say it was somewhere in there close.</p> <p>4 Q So it was around the time of the December training</p> <p>5 session in Arizona that you were reaching an</p> <p>6 agreement with Mark Boal?</p> <p>7 A I never reached any agreements with Mark Boal.</p> <p>8 Q Was it around the time -- well, let me -- I just</p> <p>9 want to pin this down so I know the before and</p> <p>10 after. The jump training session in Arizona when</p> <p>11 you told your head shed you were leaving, do you</p> <p>12 know if it was before or after Christmas?</p> <p>13 A Before.</p> <p>14 Q Okay. And was it sometime before or after</p> <p>15 Thanksgiving?</p> <p>16 A I don't know. Those get mushy.</p> <p>17 Q Well, do you remember where you were for</p> <p>18 Thanksgiving --</p> <p>19 A No.</p> <p>20 Q -- in 2000 -- well, do you know where you were for</p> <p>21 Christmas of that year?</p> <p>22 A I would have been in Virginia Beach maybe. I don't</p> <p>23 know. I could have flown to the {REDACTED} to see</p> <p>24 my {REDACTED}. I honestly don't remember.</p> <p>25 Q Where was home at the time?</p>	<p style="text-align: right;">Page 91</p> <p>1 do. It's easy to lose track of that. I know.</p> <p>2 MR. FURMAN: Yeah. I'm just --</p> <p>3 RANDAL JOHNSTON: I take no offense at your</p> <p>4 having asked.</p> <p>5 MR. FURMAN: No, that's okay. I want to pin</p> <p>6 down the dates.</p> <p>7 BY MR. FURMAN:</p> <p>8 Q So your contact from Mr. Boal, was it before or</p> <p>9 after the training session in Arizona?</p> <p>10 A I don't remember exactly.</p> <p>11 Q Okay. I'm going to run by some names, and I want</p> <p>12 to ask you who they are and so forth. Howard</p> <p>13 Sanders, Howie Sanders, do you know who that is?</p> <p>14 A No. Oh, Howie -- is that a representative at UTA?</p> <p>15 Q Yes.</p> <p>16 A Okay. Yeah, I know that name.</p> <p>17 Q He's an agent at UTA.</p> <p>18 A Yeah.</p> <p>19 Q How did you first get in contact with him?</p> <p>20 A Through Elyse Cheney.</p> <p>21 Q And do you know when that contact first took place?</p> <p>22 A No.</p> <p>23 Q How about Jonathan Leven?</p> <p>24 A I know the name, but I'm not placing it.</p> <p>25 Q If I were to tell you it's a contact through which</p>
<p style="text-align: right;">Page 90</p> <p>1 A Virginia Beach.</p> <p>2 Q Okay. And {REDACTED} in {REDACTED}, you're</p> <p>3 referring to your {REDACTED} -- I don't -- I'm not</p> <p>4 asking -- I just want to get a sense of it.</p> <p>5 MR. FURMAN: You want to take a break, Randy?</p> <p>6 Is that what it is or --</p> <p>7 RANDAL JOHNSTON: Yeah. Let me ask that there</p> <p>8 not be any identification of the state or part of</p> <p>9 the country where his {REDACTED} live. I don't</p> <p>10 care for you to --</p> <p>11 MR. FURMAN: I get that. I just wanted to get</p> <p>12 a sense, when he referred to {REDACTED}, you're</p> <p>13 talking about your side of the {REDACTED}.</p> <p>14 THE WITNESS: Yeah.</p> <p>15 RANDAL JOHNSTON: Yeah. And Miss Reporter, if</p> <p>16 you will -- where he talked about --</p> <p>17 MR. FURMAN: Take out {REDACTED}. That's</p> <p>18 fine.</p> <p>19 RANDAL JOHNSTON: -- where he went to visit</p> <p>20 his {REDACTED} and the reference to the state,</p> <p>21 delete that. Just put a blank in there.</p> <p>22 MR. FURMAN: Yeah, I understand.</p> <p>23 RANDAL JOHNSTON: Thank you.</p> <p>24 MR. FURMAN: No objection. I agree.</p> <p>25 RANDAL JOHNSTON: That's an easy mistake to</p>	<p style="text-align: right;">Page 92</p> <p>1 you would get to Kathryn Bigelow, does that ring a</p> <p>2 bell with you?</p> <p>3 A No.</p> <p>4 Q Did you have direct contact with Kathryn Bigelow at</p> <p>5 any point in time?</p> <p>6 A Uh-huh.</p> <p>7 Q Was it by e-mail or by phone?</p> <p>8 A In person.</p> <p>9 Q And when did that take place?</p> <p>10 A I couldn't even place the month. After Christmas.</p> <p>11 Q It was after Christmas of 2011?</p> <p>12 A Yeah.</p> <p>13 Q And Elyse Cheney, when did you first meet her?</p> <p>14 A Before Christmas.</p> <p>15 Q How did you get in touch with her?</p> <p>16 A Some SEAL friends of mine who had written a book</p> <p>17 knew of her and said, Hey, you know, if you're ever</p> <p>18 in New York, you ought to look her up.</p> <p>19 Q So when you came to New York in December of 2011,</p> <p>20 did you meet with Elyse Cheney in person?</p> <p>21 A In -- yeah, yeah. That would have been December</p> <p>22 when I was up there for the -- to go see 9/11</p> <p>23 memorial, the whole 9 yards.</p> <p>24 Q Okay. And who was the SEAL Team 6 member that</p> <p>25 wrote the book?</p>

<p style="text-align: right;">Page 93</p> <p>1 A It wasn't --</p> <p>2 MR. FURMAN: Is that also something you want</p> <p>3 to leave a blank? I -- I'm fine with that.</p> <p>4 RANDAL JOHNSTON: Yeah. Number one, I'm not</p> <p>5 sure it was a SEAL Team 6 member.</p> <p>6 THE WITNESS: It's not.</p> <p>7 RANDAL JOHNSTON: And he just said some SEAL</p> <p>8 friends who wrote a book.</p> <p>9 MR. FURMAN: Oh, got you. Okay. All right.</p> <p>10 So --</p> <p>11 A I couldn't even place their names, no. They were</p> <p>12 guys that I knew from Team 5 years ago, had gotten</p> <p>13 out. I think they're firefighters now.</p> <p>14 Q And they wrote books about their involvement as --</p> <p>15 A I've never read their books. I don't know. I know</p> <p>16 they were involved in that industry. They helped</p> <p>17 write some video games. They were involved in a</p> <p>18 whole bunch of different stuff. But could I give</p> <p>19 you the list of what they were involved with? No.</p> <p>20 I don't know.</p> <p>21 Q Now, Ms. X, I want to turn your attention back to</p> <p>22 her. I'm not sure if I have a date on this. The</p> <p>23 Panetta retirement dinner where he was leaving the</p> <p>24 CIA and going to DoD, when did that take place?</p> <p>25 And that was at Langley Air Force Base, right?</p>	<p style="text-align: right;">Page 95</p> <p>1 A I don't believe so.</p> <p>2 Q Was it after you decided that -- well, when you</p> <p>3 told your boss you were retiring?</p> <p>4 A Was it after I had gotten out of the Navy? Yes.</p> <p>5 Q Well, when did you get out of the Navy?</p> <p>6 A My final day on paper was June 28.</p> <p>7 Q And that was 2012?</p> <p>8 A Yes.</p> <p>9 Q And what does that mean, final day on paper? I'm</p> <p>10 not sure if I understand that.</p> <p>11 A I finished my terminal leave.</p> <p>12 Q And what does terminal leave mean?</p> <p>13 A It's the amount of leave you accrue over your</p> <p>14 career that you tack on to the end of your -- you</p> <p>15 can either take vacation time with it or you can</p> <p>16 tack it on the end of your career and terminal.</p> <p>17 Right. You -- there's no coming back from it.</p> <p>18 You're done.</p> <p>19 Q So when did your terminal leave start?</p> <p>20 A I believe it started January 1, but it might have</p> <p>21 been predated through Christmas. I don't remember</p> <p>22 exactly.</p> <p>23 Q Of --</p> <p>24 A Because I would have taken leave for Christmas,</p> <p>25 right. I'm guessing. I don't remember exactly,</p>
<p style="text-align: right;">Page 94</p> <p>1 A Within three weeks of the raid.</p> <p>2 Q So it was at some point in the spring or early</p> <p>3 summer of 2011?</p> <p>4 A I'm sure you could look up public domain and see</p> <p>5 when his retirement was.</p> <p>6 Q Yeah. And you understood at -- was it at that time</p> <p>7 that Ms. X got authority to speak to Kathryn</p> <p>8 Bigelow and Mark Boal?</p> <p>9 A I wouldn't say right then, but within the next</p> <p>10 month or so, yeah, sure.</p> <p>11 Q Mark Bowden, you know who he is, right?</p> <p>12 A Uh-huh.</p> <p>13 Q Yes?</p> <p>14 A Yes. Sorry. Sorry.</p> <p>15 Q That's fine. And he's an author that wrote several</p> <p>16 books, including a book called The Finish that was</p> <p>17 written after your book or published after your</p> <p>18 book. But he also wrote several other bestselling</p> <p>19 books that involved military operations, correct?</p> <p>20 A Yes.</p> <p>21 Q Okay. When did Mark Bowden first get in touch with</p> <p>22 you?</p> <p>23 A I don't remember the exact date. He -- mutual</p> <p>24 friend of ours connected us.</p> <p>25 Q And was that before December of 2011?</p>	<p style="text-align: right;">Page 96</p> <p>1 but I would have taken leave for Christmas, and</p> <p>2 then I would have just -- I never came back after</p> <p>3 that.</p> <p>4 Q And until June 28 of 2012, were your obligations to</p> <p>5 the Navy the same as if you were on active duty?</p> <p>6 A No.</p> <p>7 Q How were they different?</p> <p>8 A I didn't have to show up at work, no uniform. I</p> <p>9 turned my guns in. I turned my gear in. I didn't</p> <p>10 show back up at the command other than to sign my</p> <p>11 out-processing paperwork and be done.</p> <p>12 Q How about in terms of your nondisclosure</p> <p>13 agreements? Would they have changed from the time</p> <p>14 that you gave notice that you were resigning up and</p> <p>15 through June 28 of 2012?</p> <p>16 A I don't know the specifics of how they change, but</p> <p>17 I would assume they -- now, right, looking back,</p> <p>18 seeing all this, yeah, they stayed the same no</p> <p>19 matter if you're a civilian, in terminal leave,</p> <p>20 out. Across the board, it's all the same. If you</p> <p>21 would have asked me then if I knew, no.</p> <p>22 Q Well, did you ask anyone at the time?</p> <p>23 A No.</p> <p>24 Q When did you -- let me ask you some other names and</p> <p>25 I'm going to turn to No Easy Day. Tyler Gray, who</p>

<p style="text-align: right;">Page 97</p> <p>1 is he?</p> <p>2 A I know him.</p> <p>3 Q Is he a SEAL?</p> <p>4 A No.</p> <p>5 Q How do you know him?</p> <p>6 A He's a former Delta Force guy, wounded in Iraq</p> <p>7 years ago.</p> <p>8 Q Did he write a book?</p> <p>9 A I don't think he's written a book. I just watched</p> <p>10 a -- a big article on him on -- not a book, like, a</p> <p>11 TV show but a special on him and several other</p> <p>12 vets. That just was recently --</p> <p>13 Q Did you have any business dealings with him?</p> <p>14 A No.</p> <p>15 Q Did you have any indirect business dealings with</p> <p>16 him, say, through Electronic Arts or --</p> <p>17 A I believe he did some work for EA.</p> <p>18 Q And how about Nate Brown?</p> <p>19 A Nate Brown is the one who introduced me to Elyse</p> <p>20 Cheney.</p> <p>21 Q Okay.</p> <p>22 A He's the former SEAL.</p> <p>23 Q And was -- wow. Small world. Was Nate Brown also</p> <p>24 involved with EA?</p> <p>25 A Not when I was there.</p>	<p style="text-align: right;">Page 99</p> <p>1 Q And why was it after?</p> <p>2 A Because I hadn't thought about it before then.</p> <p>3 Q Well, was there anything about Leon Panetta's</p> <p>4 retirement and the introduction of Kathryn Bigelow</p> <p>5 and Mark Boal through Ms. X that made you --</p> <p>6 prompted you to think about writing a book?</p> <p>7 A We dealt with that -- as I mentioned earlier, there</p> <p>8 was the Captain Phillips thing, right, and we saw</p> <p>9 higher-ups take advantage of that. My thought here</p> <p>10 again was the exact same thing. Okay. Par for</p> <p>11 course. It is what it is. They did it before.</p> <p>12 They'll do it again. Okay. I don't think I really</p> <p>13 started thinking about a book idea until I had</p> <p>14 actually met Elyse.</p> <p>15 Q And that -- well, Elyse Cheney is a literary agent;</p> <p>16 right?</p> <p>17 A Yes.</p> <p>18 Q So literary agent means a book; right?</p> <p>19 A Uh-huh.</p> <p>20 Q Yes?</p> <p>21 A Yes, sir. Sorry. Sorry.</p> <p>22 Q So when Nate Brown introduced you to Elyse Cheney,</p> <p>23 it wasn't to, you know, meet a friend in New York.</p> <p>24 It was essentially to write a book; right?</p> <p>25 A No. It was a friend that he knew in New York and</p>
<p style="text-align: right;">Page 98</p> <p>1 Q Did you have any business dealings with Nate Brown?</p> <p>2 A No.</p> <p>3 Q How about Kevin Vance?</p> <p>4 A Same thing.</p> <p>5 Q Same thing in what sense?</p> <p>6 A Him and Brown were both -- that's how I met them,</p> <p>7 was at Team 5 years ago. And I believe they worked</p> <p>8 together. They both might be firemen. So that --</p> <p>9 that's how I would know one. I'd know the other.</p> <p>10 Q Did you have any business dealings with him?</p> <p>11 A No.</p> <p>12 Q How about Dave Cooper?</p> <p>13 A No.</p> <p>14 Q Any business dealings with him at all?</p> <p>15 A No.</p> <p>16 Q When did you first get an idea that you were going</p> <p>17 to write a book about the Osama bin Laden raid?</p> <p>18 A I couldn't tell you when it first popped into my</p> <p>19 mind.</p> <p>20 Q You're not sure of when that idea first came into</p> <p>21 mind?</p> <p>22 A No, not exactly.</p> <p>23 Q Did it come into your mind before or after Leon</p> <p>24 Panetta's retirement?</p> <p>25 A After.</p>	<p style="text-align: right;">Page 100</p> <p>1 goes, Hey, if you're ever in New York and you want</p> <p>2 to sit down and talk with somebody I at least know</p> <p>3 and trust, they'll be able to answer your questions</p> <p>4 about the process.</p> <p>5 Q Okay. So you were talking to Nate Brown about the</p> <p>6 process of writing a book at that point?</p> <p>7 A This is something that he brought up to me. Said,</p> <p>8 Hey, look, if this is something -- it's not a long</p> <p>9 conversation. Hey, look, if you're ever in New</p> <p>10 York, he'd -- he referenced, Hey, you want somebody</p> <p>11 to talk to about it, you ever want to think about</p> <p>12 it, hey, meet this lady. She'll at least answer</p> <p>13 some of your questions.</p> <p>14 Q So did you have a conversation with Nate Brown</p> <p>15 about the potential for writing a book?</p> <p>16 A Not an in-depth one that I can remember. It was</p> <p>17 more of a, Hey, look, if you're ever going to do</p> <p>18 this, I'll introduce you to somebody. You want</p> <p>19 somebody to talk to, bounce ideas out, get some</p> <p>20 straight answers from, I trust her.</p> <p>21 Q Well, did you meet with anyone else in New York</p> <p>22 when you came to New York?</p> <p>23 A I think I was up -- I think when I met her -- and I</p> <p>24 don't remember exactly what was the same week I was</p> <p>25 in New York with my buddies seeing the sights and</p>

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1 ground zero. So we did that type of thing, and I
 2 believe it was before I left town at the end of the
 3 trip where I swung by her office.
 4 Q And other than meeting with Elyse Cheney of the
 5 8 million or so people that live in New York,
 6 including two people that are looking at you right
 7 now, did you meet with anyone else?
 8 RANDAL JOHNSTON: Object to the predicate to
 9 the question.
 10 Q You can answer.
 11 A No.
 12 Q So is it fair to say that the purpose of the
 13 meeting with Elyse Cheney was to discuss a book of
 14 some sort?
 15 A Yeah, sure.
 16 Q And is it fair to say that you were introduced to
 17 Elyse Cheney through Nate Brown?
 18 A Sure.
 19 Q When did you have your conversation with Nate
 20 Brown?
 21 A No clue.
 22 Q Okay. It was somewhere between Leon Panetta's
 23 retirement and December of 2011; right?
 24 A Sure.
 25 Q And --

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1 A Yes.
 2 Q -- you don't recall if it happened in the summer,
 3 the fall, the spring?
 4 A No.
 5 Q And was it during a phone call or was it over
 6 e-mails? How did you have that conversation with
 7 Nate Brown?
 8 A I can't remember because I hadn't seen Nate in
 9 years. I don't know that he would have even had my
 10 cell phone number. So where I -- where would I
 11 have run into him? I don't know. I don't know if
 12 it was a training trip to the west coast that we
 13 ran into him. I don't remember. I don't remember
 14 how that would have taken place. It seems
 15 unrealistic to me that he would have had my cell
 16 phone.
 17 Q And was the discussion with Nate Brown about
 18 writing a book about Operation Neptune Spear?
 19 A No. Nate Brown did reach out to me. He was in the
 20 fire academy or something. And he -- so he did
 21 track me down somehow. Must have been through cell
 22 phone because I remember him sending me a flag from
 23 his fire station that I -- that I carried on some
 24 jump trips. I remember that.
 25 Q And so he contacted you. How did he know that you

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1 wanted to meet with Elyse Cheney or meet with an
 2 agent?
 3 A I have no idea. I don't think that was the reason
 4 for the call.
 5 Q Well, how did it come about that he introduced you
 6 to Elyse Cheney?
 7 RANDAL JOHNSTON: Objection; asked and
 8 answered.
 9 A He gave me her name and number.
 10 Q And did you ask for a name of an agent?
 11 A Not that I recall. He had reached out for me to
 12 send me this flag. I've got some great photos of
 13 it.
 14 Q So I just want to understand this --
 15 A So how that came up in the phone call, I have no
 16 idea.
 17 Q So the conversation with Nate Brown went from him
 18 sending you a flag to him giving you the name of a
 19 literary agent in New York?
 20 A Right.
 21 Q And you don't know how the flag went to --
 22 A I'm sure we had a catch-up conversation. How you
 23 doing? What you been up to? Hey. Oh, maybe it
 24 was something along -- I heard you were on the
 25 raid. I don't know how that conversation went. I

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1 can't remember. But I'm sure it was two buddies
 2 who hadn't seen each other in years catching up,
 3 seeing what's going on. Hey, I don't know. I'm
 4 thinking about getting out. Oh, well, hey, you
 5 ever get -- I have no idea how that conversation
 6 progressed. But I could see that absolutely
 7 happening.
 8 Q Then did the conversation progress to, I'm
 9 interested in writing a book, because how else
 10 would --
 11 A Oh, I don't remember.
 12 Q How else would you get in touch with Elyse Cheney?
 13 A He gave me her number.
 14 Q Because I think I -- you know, maybe I'm just not
 15 asking good questions, but I'm trying to understand
 16 how you went from a discussion out of the blue with
 17 Nate Brown to getting the name and the contact
 18 details for a literary agent, a high-powered one at
 19 that --
 20 A Right.
 21 Q -- in New York City to a place that you've never
 22 been to.
 23 A Could have been two guys catching up who hadn't
 24 seen each other in years. I had just been on
 25 the -- a very large high-profile mission. He knew

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1 that. We're catching up. He knew -- who knows
 2 what else we discussed? I have no idea. Maybe we
 3 talked about the hypocrisy. Maybe we -- who knows
 4 what we talked about. I don't remember. But that
 5 conversation very easily could have led into, Well,
 6 hey, if you're getting out, hey, you're ever in
 7 New York, I'll introduce you to somebody. You want
 8 some good advice, there's somebody there. That's
 9 the best -- that's the best idea in my mind I can
 10 give you. And I hope -- I'm not trying to avoid
 11 anything here. I'm just trying to answer it for
 12 you.
 13 Q That's okay. My job is just to ask questions.
 14 A Okay.
 15 Q And the hypocrisy, you're referring to the -- well,
 16 what are you referring to? Let me ask you that.
 17 A The hypocrisy?
 18 Q Yeah.
 19 A My personal belief is there's a lot of hypocrisy
 20 that goes on between our politicians and the rest
 21 of the world.
 22 Q Okay. Well, that's very broad. But when it
 23 relates to Operation Neptune Spear, what hypocrisy
 24 are you referring to?
 25 A I didn't say there was specific hypocrisy to

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1 Neptune Spear. I just said there's a whole lot of
 2 hypocrisy at the highest levels of our government.
 3 And that's what I refer to when I mean hypocrisy.
 4 Q Yeah. Well, the reason I'm asking you about that
 5 is because you were referencing your discussion
 6 with Nate Brown and about this high-profile
 7 operation. And you mentioned the term "hypocrisy."
 8 So I want to understand the connection between this
 9 high-profile operation and your use of the term
 10 "hypocrisy."
 11 A Any number of things. Right. The Captain Phillips
 12 rescue. The government political figures take
 13 advantage of that for their own self-serving
 14 interest. That could happen on many different
 15 levels in many different ways. So that's what I
 16 mean by hypocrisy.
 17 Q Now, did you believe that there was hypocrisy
 18 involved with Ms. X speaking to the producers of a
 19 film about the bin Laden raid?
 20 A I wouldn't classify it as hypocrisy. I would
 21 classify it as par for course for allowing -- the
 22 government allowing her to do that.
 23 Q And so you don't consider that to be hypocrisy, but
 24 you consider the --
 25 A No, because she -- in her position --

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1 Q I'm sorry. Let me rephrase it because I'm asking
 2 it awkwardly. You believe that with Captain
 3 Phillips there was hypocrisy involved in
 4 politicians taking advantage of that operation.
 5 And is it that you don't see hypocrisy with
 6 Operation Neptune Spear?
 7 A You asked if Mrs. X -- I saw hypocrisy with Mrs. X
 8 talking to them. No, Mrs. X did not come up with
 9 that. Mrs. X was allowed to do it by Leon Panetta.
 10 So I would say the hypocrisy lies at Leon Panetta,
 11 not at Mrs. X.
 12 Q Got you. Now I understand. So the hypocrisy of
 13 Leon Panetta allowing Ms. X to speak about
 14 Operation Neptune Spear, did you believe that to be
 15 something that was wrong?
 16 A Wrong in what context?
 17 Q Hypocrisy.
 18 A I believed it was hypocrisy, yes.
 19 Q Other than Nate Brown, did you speak to anyone else
 20 other than Elyse Cheney about the idea of writing a
 21 book, about No Easy Day -- that led to No Easy Day?
 22 RANDAL JOHNSTON: Can we have a time frame?
 23 MR. FURMAN: From the time of Leon Panetta's
 24 retirement up and through December of 2011.
 25 A I talked to my ex-wife about it.

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1 Q Anyone else?
 2 A Not that -- not that I can remember.
 3 Q When did you first have any conversation with your
 4 ex-wife about that?
 5 A First real conversation I had would have had to
 6 have been after I met Elyse and at least had talked
 7 with somebody who kind of knew the concept and flow
 8 of what this would -- might look like and how -- I
 9 had never written a book before. I didn't know how
 10 any of it worked. And so I would guess that I had
 11 the first conversation with my ex after that.
 12 Q And that was after speaking to Elyse Cheney?
 13 A After Elyse Cheney, yes.
 14 Q Okay. And up until that time when you met with
 15 Elyse Cheney, were you aware of Mark Bowden writing
 16 a book?
 17 A I don't believe so.
 18 RANDAL JOHNSTON: Well, then you don't know
 19 Mark Bowden very well.
 20 MR. FURMAN: I'm sorry?
 21 RANDAL JOHNSTON: Well, then you don't know
 22 Mark Bowden very well.
 23 A If you're pulling this stuff, can I run and take --
 24 Q Yeah, sure.
 25 (A brief recess was taken.)

<p style="text-align: right;">Page 109</p> <p>1 (Exhibit 4 was marked for identification.)</p> <p>2 Q Mr. Bissonnette, I've shown you what's been marked</p> <p>3 as Exhibit No. 4. Exhibit No. 4 is an e-mail from</p> <p>4 Ben Sevier to Elyse Cheney. You're not copied on</p> <p>5 it. I'm going to be showing it to Ms. Cheney at</p> <p>6 her deposition, but I want to ask you just about</p> <p>7 the contents of this document. The last line in</p> <p>8 the e-mail -- and the e-mail is dated December 20</p> <p>9 at 8:15 from Mr. Sevier to Elyse Cheney. It says,</p> <p>10 Today was awesome. Thanks for making it happen.</p> <p>11 Do you see that?</p> <p>12 A Yep.</p> <p>13 Q Is he referring to a meeting that you had with Ben</p> <p>14 Sevier and Elyse Cheney?</p> <p>15 A I don't know.</p> <p>16 Q Did you ever meet with Ben Sevier?</p> <p>17 A Yeah.</p> <p>18 Q Was that in December of 2011?</p> <p>19 A I honestly could not remember when I met him.</p> <p>20 Q Now, the reference in the e-mail where it says,</p> <p>21 Updates, and the e-mail goes on at the beginning to</p> <p>22 say, Contract underway to you first week of</p> <p>23 January. Do you know what he's referring to? Was</p> <p>24 there a contract discussion?</p> <p>25 A There must have been.</p>	<p style="text-align: right;">Page 111</p> <p>1 MR. FURMAN: Do you have that, Randy?</p> <p>2 RANDAL JOHNSTON: I don't.</p> <p>3 MR. FURMAN: Okay.</p> <p>4 RANDAL JOHNSTON: Thank you.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q And the Number 5 should be a December 24, 2011,</p> <p>7 6:31 p.m. e-mail.</p> <p>8 A Yes.</p> <p>9 Q And it's from you at a new address. It's a Mark</p> <p>10 Owen e-mail address.</p> <p>11 A Right.</p> <p>12 Q And it's to Jonathan Leven, L-E-V-A-N {VERBATIM}.</p> <p>13 And it says, Jonathan, please pass the word that</p> <p>14 this is my new e-mail address and name. Mark Owen.</p> <p>15 It has a phone number. And then it has the Mark</p> <p>16 Owen Gmail account e-mail address. And then it</p> <p>17 says, Thanks, buddy. And you can delete all old</p> <p>18 info for me.</p> <p>19 A few questions about this e-mail. First, who</p> <p>20 is Jonathan Leven?</p> <p>21 A The name's not -- I didn't deal with him a lot so</p> <p>22 the name's not ringing a bell. Is he tied in</p> <p>23 with --</p> <p>24 Q Kathryn Bigelow?</p> <p>25 A I was going to say Bigelow or --</p>
<p style="text-align: right;">Page 110</p> <p>1 Q Did it involve you?</p> <p>2 A I'm guessing it involved -- I mean, I haven't read</p> <p>3 this e-mail before, but I'm guessing this involved</p> <p>4 the contract that we were going to put in place for</p> <p>5 me writing the book.</p> <p>6 Q So when you met with Elyse Cheney in December, did</p> <p>7 you have a plan to write a book about the Operation</p> <p>8 Neptune Spear?</p> <p>9 A No. As I said a minute ago, I met with her, tried</p> <p>10 to get the low-down of how it all worked. And then</p> <p>11 the plan evolved from there.</p> <p>12 (Exhibit 5 was marked for identification.)</p> <p>13 Q All right. This is a Christmas Eve e-mail,</p> <p>14 Christmas Eve 2011 at 6:30 p.m. So it's getting</p> <p>15 close to Santa. And the e-mail subject says, It's</p> <p>16 me. And it's written to Jonathan Leven. And the</p> <p>17 e-mail says, Please pass the word that this is my</p> <p>18 new e-mail address and name. And it says, Mark</p> <p>19 Owen. And then it says, Thanks, buddy. You can</p> <p>20 delete all old info for me.</p> <p>21 A I think I got a different e-mail than you did.</p> <p>22 RANDAL JOHNSTON: I have a different one as</p> <p>23 well.</p> <p>24 (A discussion was held off the record.)</p> <p>25 Q So we've got the new number five.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q Mark Boal?</p> <p>2 A No, no, the agent. Is he -- well, one of the two.</p> <p>3 Could be assistant for -- you mentioned his name</p> <p>4 earlier. He's --</p> <p>5 Q Howard Sanders?</p> <p>6 A Yes. Is he tied in with Sanders or is he tied in</p> <p>7 with Boal? I don't know. Could have been either.</p> <p>8 Q Well, you're referring to him as a buddy, so I can</p> <p>9 only assume that you know him better than I would.</p> <p>10 A I refer to everybody as buddy.</p> <p>11 Q All right. Well, you also refer in this e-mail</p> <p>12 that you can delete all the old info for him -- for</p> <p>13 you, that he should delete it. So what old</p> <p>14 information are you referring to?</p> <p>15 A I'm guessing my old e-mail address.</p> <p>16 Q Okay. And why would you have been in contact with</p> <p>17 Mr. Leven? And let's assume for a moment that he's</p> <p>18 not military and he's involved to some degree with</p> <p>19 media. Why were you in touch with him?</p> <p>20 A I don't know. Could -- do we know if Leven was</p> <p>21 tied in with Bigelow or Leven was tied in with --</p> <p>22 his name keeps escaping me -- the agent that Elyse</p> <p>23 introduced me to.</p> <p>24 Q Howard Sanders?</p> <p>25 A Howie, Howie.</p>

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1 Q Well, I think we're going to get to it. I just
 2 want to right now probe what you know.
 3 A Okay.
 4 Q So do you have any recollection as to who Jonathan
 5 Leven is?
 6 A It was one -- he worked for one of the two.
 7 Q Okay.
 8 (Exhibit 6 was marked for identification.)
 9 Q I'm referring to, Mr. Bissonnette, to what's been
 10 marked Exhibit No. 6.
 11 A Okay.
 12 Q On December 24, now really close to Christmas Eve
 13 on December 24 at 9-- I'm sorry. I take it back.
 14 It was in the morning of Christmas Eve. You wrote
 15 to Ben Sevier, Elyse Cheney, and Howard Sanders at
 16 United Talent stating that, This will be my new
 17 e-mail address. Do you see that?
 18 A Yeah.
 19 Q Now, had you been corresponding with those three
 20 people before that date?
 21 A I mean, I must have because I -- they had a
 22 previous e-mail address for me, I'm guessing.
 23 Q And what would be the purpose of -- what would have
 24 been the purpose of contacting Howard Sanders at
 25 United Talent?

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1 A Elyse was a literary agent. She had worked with
 2 Howie before. Howie was the guy who took literary
 3 works and represented turning them into movies, TV
 4 shows, and that type of stuff.
 5 Q Was it your plan as of December 24 to upload your
 6 project -- not just simply to write a book but also
 7 to make a movie?
 8 A I wouldn't say it was a plan, but I absolutely was
 9 going to explore other options. And if Elyse was
 10 introducing me to somebody else, I was going to
 11 meet them and get to know them.
 12 Q And what were you trying to explore at that point?
 13 I just want to understand what your ideas were.
 14 A I didn't know what I didn't know. I had been in
 15 the military for 14 years. I didn't know how any
 16 of this worked. So if Elyse is somebody I'm
 17 involved with as saying, Hey, here's a guy you
 18 should meet, okay. I'll get to know him.
 19 Q Okay. But he's a guy that helps authors turn their
 20 books into film.
 21 A Yeah.
 22 Q You understand that; right?
 23 A Yeah.
 24 Q Elyse Cheney told you that; right?
 25 A Yes.

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1 Q And you wanted to keep contact with that person;
 2 correct?
 3 A Sure.
 4 Q So you gave him a new e-mail address with your
 5 pseudonym; correct?
 6 A Right. And it was very important to me to not be
 7 using my real name. And so as this continued,
 8 okay, I was going to switch everything over to
 9 my -- to, you know, my pseudonym e-mail.
 10 Q Why didn't you want to use your real name?
 11 A Because from the beginning in this project, I
 12 haven't wanted to take any personal credit for it.
 13 Q Was there any concern about disclosure of your real
 14 name?
 15 A Sure, of course. Security issues, you name it.
 16 Q Now, at that point in time, at least in your mind,
 17 you didn't have the nuts and bolts, but you were at
 18 least formulating ideas about a book and a movie;
 19 correct?
 20 A I would say so.
 21 Q And formulating ideas about a book and a movie that
 22 related to Operation Neptune Spear. Is that safe
 23 to say?
 24 A At least the book. Movie, I don't know
 25 specifically.

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1 Q At that point in time, you knew that Ms. X had
 2 authority to speak with Kathryn Bigelow and Mark
 3 Boal; correct?
 4 A I don't know where that fell in, but yeah, I knew
 5 she was authorized to -- yeah. It would have been
 6 before this that she had had authorization to sit
 7 down with them.
 8 Q Did you consider seeking that same authority --
 9 A No.
 10 Q -- in December of 2011?
 11 A No.
 12 Q Why not?
 13 A That was from Panetta directly to her. I don't
 14 have direct ties to Panetta at all.
 15 Q Would it only have been through Panetta that you
 16 could have gotten the authority to at that point in
 17 time in December of 2011 to write a book or perhaps
 18 make a movie about Operation Neptune Spear?
 19 A I didn't understand all of the technicalities of
 20 what needed to happen to get there. So I think we
 21 slowly kind of figured that out through the
 22 process. But to say I knew what was -- yeah.
 23 Q Now, in your discussion with Elyse Cheney, I'm
 24 presuming it took place at some point in
 25 December 2011; right? Is that a safe assumption?

<p style="text-align: right;">Page 117</p> <p>1 A Yes.</p> <p>2 Q And did a meeting also take place with Ben Sevier</p> <p>3 around that time?</p> <p>4 A I'm guessing so, yeah.</p> <p>5 Q How long did that meeting take place?</p> <p>6 A No idea.</p> <p>7 Q Where did it take place?</p> <p>8 A In New York.</p> <p>9 Q Well, New York's a big place. Dutton? Elyse</p> <p>10 Cheney?</p> <p>11 A It would have been Elyse's office. I didn't go</p> <p>12 into Dutton until much later.</p> <p>13 Q And was Ben Sevier at Elyse's office?</p> <p>14 A Not the first time we met.</p> <p>15 Q Just trying to follow you here. Did you meet with</p> <p>16 Ben Sevier in December 2011?</p> <p>17 A I think so, but I -- exact dates, no. And it</p> <p>18 wasn't the trip that I went up there and met Elyse.</p> <p>19 Q Okay. So there was two trips to New York in</p> <p>20 December of 2011?</p> <p>21 A I don't remember.</p> <p>22 Q Well, is there a way for you to find that out, for</p> <p>23 example, your -- how did you pay for those trips?</p> <p>24 Is there any credit card?</p> <p>25 A My ex-wife would have handled all that. I don't</p>	<p style="text-align: right;">Page 119</p> <p>1 knowledge wasn't protected by any kind of privilege</p> <p>2 that you're aware of; right?</p> <p>3 A Right.</p> <p>4 Q And so if she wanted to talk to anyone else about</p> <p>5 her conversation with you, she was at liberty to do</p> <p>6 that. There's no -- to the best of your knowledge;</p> <p>7 right?</p> <p>8 A Say the question again.</p> <p>9 Q Well, let me ask you a different way. Did she sign</p> <p>10 an agreement with you to keep the information you</p> <p>11 told her about Operation Neptune Spear secret or</p> <p>12 confidential?</p> <p>13 A I don't know, but she might have because I know we</p> <p>14 made Kevin Maurer sign some sort of agreement that</p> <p>15 he wasn't going to run around and say anything. I</p> <p>16 believe so. And I don't remember all the details</p> <p>17 of it, but I -- I know that we tried to keep it</p> <p>18 somewhat controlled of who could say what and who</p> <p>19 knew what.</p> <p>20 Q Did you tell anyone in the military or the CIA or</p> <p>21 anyone in the government that you were discussing</p> <p>22 aspects of Operation Neptune Spear to a literary</p> <p>23 agent in December 2011?</p> <p>24 A No.</p> <p>25 Q Did you think that was wrong?</p>
<p style="text-align: right;">Page 118</p> <p>1 know. I'm sure. There's got to be some way. I</p> <p>2 don't know.</p> <p>3 Q If I leave a space in the transcript, if it's</p> <p>4 possible for you to fill that out, whether it was</p> <p>5 one trip or two trips to New York in 2011.</p> <p>6 A Okay.</p> <p>7 Q The meeting where Ben Sevier was present, was it in</p> <p>8 his office at Penguin or was it at Elizabeth</p> <p>9 Cheney -- Elyse Cheney's office?</p> <p>10 A I'm guessing it was at Elyse Cheney's office. It</p> <p>11 wouldn't have been at Dutton.</p> <p>12 Q And Elyse Cheney's office is lower Fifth Avenue?</p> <p>13 Do you know the location?</p> <p>14 A I'd have to look it up.</p> <p>15 Q Okay. And in the meeting with Elyse Cheney, did</p> <p>16 you describe Operation Neptune Spear to her?</p> <p>17 A In minor detail, yeah.</p> <p>18 Q Okay. And did you ask for permission -- let me</p> <p>19 just take it back.</p> <p>20 First, Elyse Cheney has no security clearance;</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q And she's not a lawyer; correct?</p> <p>24 A No, not that I know of.</p> <p>25 Q So your communication with her to the best of your</p>	<p style="text-align: right;">Page 120</p> <p>1 A No.</p> <p>2 Q Did you think it was right?</p> <p>3 A I didn't think it was wrong.</p> <p>4 Q Well, I'm asking you, do you think it was right?</p> <p>5 A Yeah.</p> <p>6 Q And why?</p> <p>7 A Because we didn't get into any type of crazy</p> <p>8 details.</p> <p>9 Q Was it because --</p> <p>10 A I wasn't discussing technology. I wasn't</p> <p>11 discussing tactics, techniques, or procedures. I</p> <p>12 was merely regurgitating big picture facts of what</p> <p>13 pretty much everybody already knew. I mean, there</p> <p>14 was multiple articles that had already been written</p> <p>15 and the big picture, who went where, what, and how</p> <p>16 was already out. So I wasn't speaking in any</p> <p>17 deeper detail than that and certainly getting into</p> <p>18 any of the what I would consider specific</p> <p>19 classified things.</p> <p>20 Q Did you tell your boss that you were meeting with</p> <p>21 Elyse Cheney?</p> <p>22 A Nope.</p> <p>23 Q Did you tell any of your colleagues at DEVGRU?</p> <p>24 A No.</p> <p>25 Q Why didn't you tell them?</p>

<p style="text-align: right;">Page 121</p> <p>1 A I didn't want to.</p> <p>2 Q Why not?</p> <p>3 A In the SEAL community, in the spec ops communities,</p> <p>4 there's folks who don't like people who write</p> <p>5 books. I was a kid who grew up reading books, and</p> <p>6 that's why I joined the military. Some people</p> <p>7 don't see it that way. They say, Hey, if you write</p> <p>8 a book, you're persona non grata. You shouldn't be</p> <p>9 part of the club. I didn't want to have to deal</p> <p>10 with that.</p> <p>11 Q So you had a concern when you met with Elyse Cheney</p> <p>12 that if the word got out to at least the special</p> <p>13 operations community, that you may be PNG'ed, which</p> <p>14 is persona non grata. Was that a concern of yours?</p> <p>15 A When I met Elyse Cheney?</p> <p>16 Q Yeah.</p> <p>17 A Not necessarily when I met Elyse Cheney that I</p> <p>18 would be PNG'ed, no.</p> <p>19 Q Did you think that you would have been PNG'ed if</p> <p>20 word had gotten out that you were contemplating</p> <p>21 writing a book?</p> <p>22 A No. I was much more worried about that when the</p> <p>23 book actually itself came out.</p> <p>24 Q Now, during this meeting with Elyse Cheney, what</p> <p>25 was your objective?</p>	<p style="text-align: right;">Page 123</p> <p>1 Q And were you interested in trying to pursue that as</p> <p>2 an objective?</p> <p>3 A In that meeting? No.</p> <p>4 Q Then what was your objective?</p> <p>5 A In the meeting was to figure out how this process</p> <p>6 worked. Right. Due to my -- what does it take?</p> <p>7 How does this process work? I don't think I had</p> <p>8 even talked to my ex-wife yet.</p> <p>9 Q What information about Operation Neptune Spear did</p> <p>10 you tell Elyse Cheney?</p> <p>11 A Very little because it wasn't about that. It was</p> <p>12 more of -- I was trying to get information out of</p> <p>13 her, not her information out of me.</p> <p>14 Q Well, what did you tell her?</p> <p>15 A That I was on the mission. I was on the helo that</p> <p>16 crashed, big picture stuff like that.</p> <p>17 Q What else?</p> <p>18 A I can't recall every detail.</p> <p>19 Q And other than the helo crash, the fact that you</p> <p>20 were on the raid itself, what else did you tell</p> <p>21 Elyse Cheney during that first meeting?</p> <p>22 A I don't remember specifics. I'm sure we would have</p> <p>23 talked through the basic flow, who I was, proof</p> <p>24 that I was there, that I'm not lying to her. But</p> <p>25 again, the first meeting was not about me</p>
<p style="text-align: right;">Page 122</p> <p>1 A Learn of what the publishing process is. How does</p> <p>2 it work? What does it -- I've never done anything</p> <p>3 remotely like it before in my life. So give me a</p> <p>4 brief rundown. How does this work?</p> <p>5 Q And what were you telling her about what</p> <p>6 information you had that would be worthy of a book?</p> <p>7 A That I was on the raid and, hey, I was curious.</p> <p>8 What does this look like? How does this process</p> <p>9 work?</p> <p>10 Q Well, did you understand that the fact that you</p> <p>11 were on the raid in and of itself was something</p> <p>12 that was of public interest? Did you believe that?</p> <p>13 A That I was -- public interest that I was on the</p> <p>14 raid?</p> <p>15 Q Yeah. The information that you had, being a</p> <p>16 firsthand operator on the raid to capture the most</p> <p>17 wanted man in the world, did you think that that</p> <p>18 was of public interest?</p> <p>19 A Sure.</p> <p>20 Q And did you think that Elyse Cheney thought that</p> <p>21 would be public interest?</p> <p>22 A I think so.</p> <p>23 Q And did you think that that topic was worthy of a</p> <p>24 book that would sell a lot of books?</p> <p>25 A Sure.</p>	<p style="text-align: right;">Page 124</p> <p>1 regurgitating all these great stories to tell this</p> <p>2 literary agent that I had just met. The first</p> <p>3 meeting was for me to get to know her and figure</p> <p>4 out, okay, how does this work? What does this look</p> <p>5 like? I need to understand that process.</p> <p>6 Q And we'll take a break in a second. I just have a</p> <p>7 follow-up question. What information did you give</p> <p>8 her to prove to her that you were not lying?</p> <p>9 A As much I could give her that she could vet.</p> <p>10 Q Like what?</p> <p>11 A Well, there isn't much. What do I say to a</p> <p>12 literary agent that sits in New York City and has</p> <p>13 no real way of vetting my stories?</p> <p>14 Q Well, how could you -- how else would -- how did</p> <p>15 you to the best of your knowledge establish that</p> <p>16 you were who you were?</p> <p>17 A I don't remember that I ever had to do anything big</p> <p>18 for Elyse Cheney specifically. I know Mr. Podlaski</p> <p>19 had asked about vetting me out. I know when I did</p> <p>20 60 Minutes, they had to vet me out. And I think</p> <p>21 the only way I was able to do -- maybe I showed</p> <p>22 Elyse. I have a photo of me meeting the President,</p> <p>23 getting an award. I think that was probably the</p> <p>24 best proof that I had.</p> <p>25 MR. FURMAN: Okay. All right. So we're at</p>

<p style="text-align: right;">Page 125</p> <p>1 ten after 12 so we'll be reconvene at 12:40.</p> <p>2 RANDAL JOHNSTON: Okay.</p> <p>3 (The deposition recessed from 12:12 p.m. to</p> <p>4 12:47 p.m. for lunch.)</p> <p>5 (Exhibit 7 was marked for identification.)</p> <p>6 Q Mr. Bissonnette, this has been marked as Exhibit</p> <p>7 No. 7. It's an e-mail dated January 2 of 2012.</p> <p>8 It's from you to Elyse Cheney and Ben Sevier. And</p> <p>9 it -- the title is, Author selection. And in the</p> <p>10 second paragraph of the e-mail, it states, I've</p> <p>11 started doing an outline from Alaska to present day</p> <p>12 so I hope it will jar my memory when talking</p> <p>13 about -- or talking with the writer.</p> <p>14 The reason I'm asking you to read that e-mail</p> <p>15 and I draw your attention to that particular</p> <p>16 sentence is that I wanted to know when you first</p> <p>17 started putting pen to paper on No Easy Day.</p> <p>18 A I'd say somewhere right around in here.</p> <p>19 Q Well, January 2 is the Monday after New Year's Eve</p> <p>20 so when do you -- physically, when did you start</p> <p>21 actually start putting pen to paper on what became</p> <p>22 No Easy Day?</p> <p>23 A I couldn't tell you the exact dates.</p> <p>24 Q What was the process? Did you use a computer,</p> <p>25 notes, postcards? How did you --</p>	<p style="text-align: right;">Page 127</p> <p>1 the exhibits, it has one of our legal assistant's</p> <p>2 names, Julia.</p> <p>3 RANDAL JOHNSTON: Right.</p> <p>4 MR. FURMAN: And the way that these documents</p> <p>5 were produced to us, they were produced on a</p> <p>6 platform that it would only allow us to print them</p> <p>7 off using Microsoft Outlook. And I think that</p> <p>8 Microsoft Outlook includes the printer's name,</p> <p>9 Julia, in this instance. And also --</p> <p>10 COYT JOHNSTON: It's a PST file.</p> <p>11 MR. FURMAN: Yeah. And that must be -- you're</p> <p>12 talking language I really don't understand.</p> <p>13 RANDAL JOHNSTON: You act like you know what</p> <p>14 he just said.</p> <p>15 MR. FURMAN: Yeah. I just nodded, but I just</p> <p>16 admitted my -- I don't know anything of what you</p> <p>17 just said. But that must be what happened. But</p> <p>18 that's not, you know -- you want to put that on the</p> <p>19 record?</p> <p>20 RANDAL JOHNSTON: Yeah. I just -- if and when</p> <p>21 we're talking about them in front of the jury, I</p> <p>22 mean, you've shown him documents and asked him</p> <p>23 about them, and I believe those -- the Julia</p> <p>24 Bienenstein obviously and I think also the addition</p> <p>25 on the subject line of the trial tag number has</p>
<p style="text-align: right;">Page 126</p> <p>1 A Computer. And honestly, I might have said this,</p> <p>2 but I probably didn't do any of the real writing</p> <p>3 until I met with Kevin.</p> <p>4 Q And in terms of an outline -- well, let me just</p> <p>5 back up. Are you saying that's not true, that you</p> <p>6 didn't start an outline on January 2?</p> <p>7 A I don't remember specifically working on an</p> <p>8 outline, no.</p> <p>9 RANDAL JOHNSTON: Can I interrupt you just for</p> <p>10 a second?</p> <p>11 MR. FURMAN: Sure.</p> <p>12 RANDAL JOHNSTON: Should have done this before</p> <p>13 we got started with the questions, but just so</p> <p>14 we're clear on the record, when you are -- so far,</p> <p>15 all of the e-mails I have seen have on the subject</p> <p>16 line an addition, Aid4Mail Trial Tag and a number.</p> <p>17 My assumption is your firm has added that as a part</p> <p>18 of indexing. That wasn't a part of the original</p> <p>19 e-mail.</p> <p>20 MR. FURMAN: Yeah.</p> <p>21 RANDAL JOHNSTON: Do you know?</p> <p>22 MR. FURMAN: You know, actually, that's a good</p> <p>23 point, Randy. I don't know the answer to that. I</p> <p>24 do know that that appears in all of the subject</p> <p>25 lines. And I also note that at the very top of all</p>	<p style="text-align: right;">Page 128</p> <p>1 been added as a part of our production of documents</p> <p>2 and is not a part of the original e-mails.</p> <p>3 MR. FURMAN: I think that's correct. And what</p> <p>4 we could do at trial is we could blank out Julia's</p> <p>5 name and we could blank out that addition on the</p> <p>6 subject line and --</p> <p>7 RANDAL JOHNSTON: I'm fine with that.</p> <p>8 MR. FURMAN: And I think that would make</p> <p>9 sense.</p> <p>10 BY MR. FURMAN:</p> <p>11 Q So Mr. Bissonnette, going back to the question I</p> <p>12 was asking about, this January 2, 2012, e-mail, the</p> <p>13 outline that you were referring to, do you believe</p> <p>14 that was already in place on January 2 or you</p> <p>15 believe it was not?</p> <p>16 A No. I believe I was just starting to do some sort</p> <p>17 of soul searching and reflecting back on Alaska to</p> <p>18 present and hopefully that would prep me for moving</p> <p>19 forward.</p> <p>20 Q Okay. Then next is January 2 also.</p> <p>21 (Exhibit 8 was marked for identification.)</p> <p>22 Q Exhibit No. 8 is an e-mail, again, a chain that</p> <p>23 ends on January 2, 2012. I want to draw your</p> <p>24 attention to the middle of this document, the first</p> <p>25 page of this document. It's an e-mail from Mark</p>

<p style="text-align: right;">Page 129</p> <p>1 Boal, who is a Hollywood producer. The subject is, 2 ZDT, which I believe is Zero Dark Thirty, dash, 3 technical advisor. And it's to an e-mail address 4 for Red Frog. Do you see that? 5 A Yep. 6 Q Is Red Frog you? 7 A Yes. 8 Q Okay. And what was the purpose of the Red Frog 9 e-mail address? 10 A It's just another e-mail account that I use. 11 Q Mark Boal in this e-mail was sending you a contract 12 that presumably was to serve as a technical advisor 13 on the film that became Zero Dark Thirty. Is that 14 accurate? 15 A Yes. 16 Q And in that e-mail, Mr. Boal is -- states, New 17 contract. It clarifies you are clear to write a 18 book. Do you see that line? 19 A Say that again. I'm sorry. I coughed right when 20 you were talking. 21 Q That's okay. I'm referring now to the Mark Boal 22 e-mail dated January 2, 2012 -- 23 A Okay. 24 Q -- at 5:35 p.m -- 25 A Yes.</p>	<p style="text-align: right;">Page 131</p> <p>1 you see that? 2 A Yes, sir. 3 Q Did you go over this contract with anyone other 4 than yourself? 5 A Yeah. I would have probably sent it to Elyse and 6 probably Richard Heller. 7 Q Was Richard Heller your lawyer? 8 A I would assume so, yes. 9 Q Did you retain Richard to represent you? 10 A As far as I know, yeah. 11 Q When did you retain Richard? 12 A No clue. 13 Q Richard is with a law firm called Frankfurt Kurnit. 14 MR. FURMAN: That's Frankfurt like a 15 Frankfurter and Kurnit is K-U-R-N-I-T. 16 Q He's a lawyer in New York; correct? 17 A Yes, sir. 18 Q Who introduced you to Richard Heller? 19 A I believe Elyse. 20 Q And did you sign a retainer with Mr. Heller? 21 A I think so. I'm not sure. I assume so. 22 Q Did you pay him a retainer or any legal fees? 23 A Yeah, I'm sure I did. 24 Q Do you know when you started paying him? 25 A I would guess January time frame going forward. I</p>
<p style="text-align: right;">Page 130</p> <p>1 Q -- to you at Red Frog. And the e-mail states, 2 quote, New contract. It clarifies you are clear to 3 write a book, parentheses, the old didn't prohibit 4 it, comma, it turns out, comma, but this makes it 5 clear and explicit, closed parentheses. 6 A Right. 7 Q Couple questions about that. First, what is 8 Mr. Boal referencing when he states, It clarifies 9 you are clear to write a book? 10 A I believe the old contract -- the initial one they 11 sent me had some sort of verbiage in there that 12 said -- that limited my ability to go out and write 13 a book outside of helping them as a tech advisor. 14 And that was something we wanted changed. 15 Q When did Mr. Boal approach you to be a tech advisor 16 on Zero Dark Thirty? 17 A When? 18 Q Yeah. 19 A I don't remember the exact date. It would have 20 been after I was introduced to him through Mrs. Z 21 or whatever -- X, whatever we're calling her. 22 Q And it presumably was sometime in 2011? 23 A Yes. 24 Q Now, the attached deal memoranda that was sent 25 over, the top of it says, As of December 2011. Do</p>	<p style="text-align: right;">Page 132</p> <p>1 don't know. 2 Q What was Mr. Heller's role? 3 A He helped with the -- I had him look over the EA 4 Sports stuff. He helped with -- I'm assuming he 5 looked at this as well. I don't remember exactly, 6 but I'm guessing he did. Yeah, he focused on this 7 type of business-type stuff. 8 Q And when did he look over the EA material? 9 A Multiple times throughout that whole -- the whole 10 process of working with EA. 11 Q And when did that start? 12 A I don't remember exact dates. 13 Q Do you remember what year it started? 14 A 2012. 15 MR. FURMAN: I'm going to call for -- at the 16 end of the transcript, we'll have a list of these 17 things that I call for the production of, but I'd 18 call for the production of the retainer agreement 19 with Mr. Heller. 20 Q Did you tell Mr. Boal that you had an attorney 21 representing you at the time that you were 22 negotiating a contract as a technical advisor on 23 Zero Dark Thirty? 24 A I don't recall if I ever told him that or not. 25 Q Now, on that same day, you forwarded Mark Boal's</p>

<p style="text-align: right;">Page 133</p> <p>1 e-mail and the attachment of the new contract over 2 to Elyse Cheney. And in your e-mail to Elyse 3 Cheney, you wrote, quote, New contract, exclamation 4 point. You can see what they pulled from the old 5 one and all the new verbiage. I'm trying to get 6 ahold of Howie so he can look it over before I 7 sign. And then you have your initial, M. Who is 8 Howie?</p> <p>9 A Howie Sanders at UTA.</p> <p>10 Q Why were you asking Howie to review that?</p> <p>11 A This was a space that I felt that he had dealt 12 with; books, movies, that business. And so I -- 13 yeah. I figured he would be somebody who could 14 help me look over this.</p> <p>15 Q Now, in your discussions with Mark Boal, which was 16 at some point in 2011 originally --</p> <p>17 A Right.</p> <p>18 Q -- to be as a technical advisor on Zero Dark 19 Thirty. Did you discuss with Mr. Boal any 20 requirement that you get clearance from your 21 employers and from the government before you can 22 serve as an advisor?</p> <p>23 A No, not that I remember.</p> <p>24 Q Was that a concern of yours?</p> <p>25 A Tech advising, no. Quite honestly, there's tons of</p>	<p style="text-align: right;">Page 135</p> <p>1 A Because it would be a great book, be the first one 2 out. It would be -- yeah. We just wanted to -- 3 Ben wanted it out as soon as possible so, okay, 4 we're going to do everything we could to get it 5 out.</p> <p>6 Q And when you say "first one out," I'm not sure what 7 you mean. What are you referring to?</p> <p>8 A We wanted to -- we wanted to have the manuscript 9 published as soon as possible to make it the best 10 selling book that we could make it.</p> <p>11 Q But when you said "first one out," are you saying 12 that you wanted to be the first one to be able to 13 have a firsthand account of the Operation Neptune 14 Spear?</p> <p>15 A No. We wanted to have the best product we could 16 out as quickly as we could. Now, what that meant 17 in the business side of things, there was a -- more 18 up to Ben. He wanted it as soon as he could.</p> <p>19 Right. So okay. Sure. We'll see what we can do.</p> <p>20 Q Were you aware of any other operators that 21 participated in Operation Neptune Spear who were 22 considering writing books?</p> <p>23 A Not that I know of.</p> <p>24 Q Did you tell anyone in SEAL Team 6 that you were 25 considering writing a book that would be a</p>
<p style="text-align: right;">Page 134</p> <p>1 SEALs in Hollywood acting as tech advisors. When I 2 pulled off of this project, another SEAL Team 6 3 friend of mine acted as the tech advisor for the 4 movie and he was from Team 6. So no, that wasn't 5 a...</p> <p>6 Q So that was not a concern?</p> <p>7 A No.</p> <p>8 (Exhibit 9 was marked for identification.)</p> <p>9 Q Mr. Bissonnette, I'm showing you an e-mail that is 10 between Ben Sevier and Elyse Cheney on January 3 of 11 2012. In this e-mail, which you were not copied 12 on, there's a discussion of what's referred to in 13 the first line as an intensive five-month writing 14 schedule. Do you see that in the first line?</p> <p>15 A Yes, sir.</p> <p>16 Q Were you aware that as early as January 3 of 2012, 17 there was a discussion of having a five-month 18 writing schedule to complete No Easy Day?</p> <p>19 A I don't know what day I was made aware of the 20 timeline restrictions, but I know we definitely 21 talked about it.</p> <p>22 Q What was motivating the timeline restrictions?</p> <p>23 A To try and get a book out as early as possible.</p> <p>24 Q And why? Why was it important to get a book out as 25 early as possible?</p>	<p style="text-align: right;">Page 136</p> <p>1 firsthand account of Operation Neptune Spear?</p> <p>2 A No.</p> <p>3 Q And why didn't you?</p> <p>4 A As we covered earlier, I didn't want -- I didn't 5 want to have to deal with the backlash from folks 6 who didn't like the idea of SEALs writing books.</p> <p>7 Q What would the backlash consist of in your mind?</p> <p>8 A I had seen -- I had seen different SEALs write 9 books in the past that were ostracized for writing 10 books; yet, I had seen other books supported by 11 other SEALs and not ostracized. It's -- the 12 community -- the community's an interesting one. 13 Right. Some people don't -- just don't like folks 14 that write and talk about their experiences.</p> <p>15 Q Were you concerned that a book written about 16 Operation Neptune Spear would cause you to be 17 ostracized?</p> <p>18 A A little bit.</p> <p>19 Q Why?</p> <p>20 A Because there's some people out there that wouldn't 21 like any SEAL writing a book, period, about 22 anything.</p> <p>23 Q Was there anything about Operation Neptune Spear in 24 particular that made you concerned that you would 25 be ostracized within the SEAL community?</p>

<p style="text-align: right;">Page 137</p> <p>1 A No.</p> <p>2 (Exhibit 10 was marked for identification.)</p> <p>3 Q Now, Exhibit 10 is an e-mail exchange between you</p> <p>4 and Mark Boal where in substance you are basically</p> <p>5 telling Mark Boal and Kathryn Bigelow that you're</p> <p>6 not going to be participating as a technical</p> <p>7 advisor on Zero Dark Thirty. Do you see that?</p> <p>8 A Yes.</p> <p>9 Q Why did you decide not to participate as a</p> <p>10 technical advisor?</p> <p>11 A I think I had seen the political back and forth of</p> <p>12 access and the idea of the story, and I just</p> <p>13 decided, hey, look, if I'm going to move forward</p> <p>14 with writing a book, then I don't think I need to</p> <p>15 be connected over here with helping on the movie as</p> <p>16 well. I think it's kind of one or the other. I</p> <p>17 don't need to do both.</p> <p>18 Q Was it your understanding that the movie was being</p> <p>19 made with the authority of the Obama</p> <p>20 Administration?</p> <p>21 A I would say, yeah, I -- I felt that way.</p> <p>22 Q And was it your belief or at least your feeling</p> <p>23 that Zero Dark Thirty, the movie, was a vehicle for</p> <p>24 the Obama Administration to use in the upcoming</p> <p>25 election 2012?</p>	<p style="text-align: right;">Page 139</p> <p>1 to Mr. Leven.</p> <p>2 A Okay. I knew it was somebody's assistant.</p> <p>3 Q Okay. So does that refresh your recollection as to</p> <p>4 who Mr. Leven is?</p> <p>5 A He was one of Mark's assistants.</p> <p>6 Q Okay. And in that prior e-mail back in December of</p> <p>7 2011 when you asked Mr. Leven to delete the old</p> <p>8 information about you, is that how you corresponded</p> <p>9 with Mark Boal, through Mr. Leven?</p> <p>10 A I think maybe just initially.</p> <p>11 Q And have you spoken to Mr. Leven at any point in</p> <p>12 time since 2012?</p> <p>13 A No.</p> <p>14 Q Do you know where he is?</p> <p>15 A No clue.</p> <p>16 Q Now, in the e-mail from Mark Boal, that was after</p> <p>17 he received the news from you at 6:00 p.m. or</p> <p>18 6:16 p.m. on Sunday, January 8, he writes, quote,</p> <p>19 That is disappointing. Keep me abreast of what you</p> <p>20 hear. And in the fullness of time, I hope and</p> <p>21 expect that this will seem like a blip on the</p> <p>22 screen. I happen to know for a fact that we are</p> <p>23 supported within DoD.</p> <p>24 Do you know what he is referring to there when</p> <p>25 he says that he knows that Zero Dark Thirty is</p>
<p style="text-align: right;">Page 138</p> <p>1 A I'm sure that would have been a thought that</p> <p>2 crossed my mind.</p> <p>3 Q When did that thought cross your mind?</p> <p>4 A I have no idea.</p> <p>5 Q In the book No Easy Day, you referred to not being</p> <p>6 a fan of President Obama. Is that fair to say?</p> <p>7 A Sure.</p> <p>8 Q And were you not a fan of his in May of 2011,</p> <p>9 around the time of --</p> <p>10 A I've never been a huge fan of his.</p> <p>11 Q Okay. And was it your understanding now, fast</p> <p>12 forwarding to January 8, 2012, that working with</p> <p>13 Mark Boal and Kathryn Bigelow would have been</p> <p>14 essentially supporting the Obama Administration's</p> <p>15 publicity in the run-up to the election in 2012?</p> <p>16 A I didn't see it that way. I just saw it as</p> <p>17 something I didn't want to be involved with</p> <p>18 anymore.</p> <p>19 Q Now, I asked you earlier about Jonathan Leven --</p> <p>20 and referring you to Exhibit 5. And it was a</p> <p>21 December 24 e-mail where you asked Mr. Leven to</p> <p>22 delete prior information. Now, I want you to take</p> <p>23 a look at Exhibit No. 10. And you'll see that the</p> <p>24 e-mail exchange on January 8, 2012, between</p> <p>25 yourself and Mark Owen also included a carbon copy</p>	<p style="text-align: right;">Page 140</p> <p>1 supported by -- or supported within DoD?</p> <p>2 A Other than what he had said of having full support</p> <p>3 within the DoD. Now, what did that mean? He</p> <p>4 didn't describe it. But I took that as somebody</p> <p>5 somewhere in the DoD system had blessed.</p> <p>6 Q Blessed the movie with the details about the</p> <p>7 operation itself?</p> <p>8 A I don't know.</p> <p>9 Q Okay.</p> <p>10 A I'm -- that's my assumption.</p> <p>11 Q Now, you wrote a fairly long e-mail to Mark and to</p> <p>12 Kathryn Bigelow on Sunday, January 8. And that was</p> <p>13 roughly 6:00 p.m. on that day, 1800 hours on that</p> <p>14 day. In your e-mail -- and I'm referring now to</p> <p>15 the third sentence in your first paragraph -- it</p> <p>16 states, quote, No matter how quiet we keep this or</p> <p>17 whether they are only looking for senior people</p> <p>18 within the agency and DoD, if word ever got out,</p> <p>19 parentheses, I'm convinced it would have -- it</p> <p>20 eventually would, closed parentheses, I will be</p> <p>21 held accountable. Do you see that?</p> <p>22 A Yep.</p> <p>23 Q What do you mean by being held accountable? I'm</p> <p>24 not sure if I understand.</p> <p>25 A That they would know I was tied in with helping out</p>

<p style="text-align: right;">Page 141</p> <p>1 the movie, and I didn't want to have to deal with 2 any of it.</p> <p>3 Q Well, what would "it" be when you say "deal with 4 any of it"?</p> <p>5 A Public judgment. You name it.</p> <p>6 Q Now, you used the word "accountable." In what 7 sense would you be held accountable?</p> <p>8 A They'd say publicly, Hey, you know, Matt 9 Bissonnette helped out on this movie, you know, 10 connecting me to the movie.</p> <p>11 Q And why would you be held accountable for that? 12 You mentioned earlier that other SEALs had advised 13 on films.</p> <p>14 A Right. I --</p> <p>15 Q Why is this different?</p> <p>16 A I just simply didn't want to be attached to it. I 17 wanted to focus on the book and not the movie.</p> <p>18 Q But is there anything about accountability that 19 made you write those words? In other words, 20 accountable to whom?</p> <p>21 A Well, nothing special, just that -- I didn't want 22 to be associated with the movie.</p> <p>23 Q Were you concerned about the fact that being 24 involved with the movie at that point, you would be 25 held accountable for releasing information that</p>	<p style="text-align: right;">Page 143</p> <p>1 classified where other people might say, Well, no, 2 we're going to nitpick you and say this portion is 3 classified. This portion is classified. And it 4 goes into the court of public opinion. And I 5 simply wanted to remove myself from that to avoid 6 that nitpicking.</p> <p>7 Q Now, if there was a concern and you were to go 8 forward and be a technical advisor, to resolve that 9 concern, wouldn't one way to do that would be to 10 ask your commanders at the Department of Defense or 11 the CIA for permission?</p> <p>12 A I'm sure there's many ways you can do that. I 13 chose to simply remove myself from the equation. 14 As I said earlier, other SEALs took that position 15 with my exact same background, exact same 16 everything, and nobody said a word about it. I 17 wanted to avoid the fact that I was on the raid and 18 also helping out with the movie. So I separated 19 myself from it.</p> <p>20 Q Now, in the second paragraph of this e-mail, you 21 offered an alternative. Do you see that?</p> <p>22 A Yep.</p> <p>23 Q And in the alternative, you mentioned other friends 24 that operate a small movie consulting business. 25 And then you put in parentheses, They have me on</p>
<p style="text-align: right;">Page 142</p> <p>1 otherwise should not be disclosed?</p> <p>2 A Repeat that one more time.</p> <p>3 MR. FURMAN: Can you read that back? Thank 4 you.</p> <p>5 (The requested material was read back by the 6 reporter.)</p> <p>7 A No.</p> <p>8 Q Now, in the next sentence, you wrote, We all know 9 that none of us have done anything wrong and you 10 both have completely respected that any, quote, 11 classification, closed quote, issues in the court 12 of public opinion, we would all be guilty. Can you 13 explain what that means?</p> <p>14 A That means the court of public opinion can go any 15 number of ways. And I simply didn't want to be 16 attached to the film because any number of people 17 could read into it any number of ways. And I 18 simply wanted to distance myself from it.</p> <p>19 Q And in what ways would it be read negatively?</p> <p>20 A I don't know. That's up to whoever reads it 21 negatively.</p> <p>22 Q Well, but you said it can go any number of ways, 23 and I don't understand what you mean.</p> <p>24 A Right. I can think it's just fine because I know 25 I'm not sharing anything in depth and truly</p>	<p style="text-align: right;">Page 144</p> <p>1 speed dial if there are any questions, and then you 2 put in all caps, wink, wink. Were you meaning that 3 if they, meaning Mark and Kathryn, really needed 4 information, that they could go through your 5 friends and then they could contact you and you 6 could relay the information?</p> <p>7 A I don't know what I meant by that other than, hey, 8 if they had some questions, I could help out.</p> <p>9 Q Well --</p> <p>10 A I might be able to help provide them some 11 background to help them get their job done.</p> <p>12 Q What does wink, wink mean other than it means what 13 it means?</p> <p>14 A Hey, if they had some additional questions, they 15 could contact me.</p> <p>16 Q Okay. And so that what you were essentially saying 17 is that I'm going to disassociate from Zero Dark 18 Thirty --</p> <p>19 A Right.</p> <p>20 Q -- but through my friends, you could still get 21 ahold of me. Basically you're saying that?</p> <p>22 A That they could ask -- that my friends could ask me 23 questions and if I could help provide some 24 background and any type of loose help, I'd love to.</p> <p>25 Q And that was the wink, wink connotation that you</p>

<p style="text-align: right;">Page 145</p> <p>1 referenced in your e-mail?</p> <p>2 A I'm not going to read into what I meant by wink,</p> <p>3 wink. I don't know what I was thinking at the time</p> <p>4 that I wrote that. But what I would say is they</p> <p>5 had the ability to contact me if they had follow-on</p> <p>6 questions that I could help out with.</p> <p>7 Q Well, the reason that I'm asking you about that --</p> <p>8 A Okay.</p> <p>9 Q -- is because I can't read into it, but I'm asking</p> <p>10 the person who wrote, Wink, wink --</p> <p>11 A Right.</p> <p>12 Q -- what he meant. So what did you mean?</p> <p>13 A I don't know.</p> <p>14 RANDAL JOHNSTON: Objection; asked and</p> <p>15 answered.</p> <p>16 Q You don't know what you meant?</p> <p>17 A No.</p> <p>18 Q You also wrote, I'd also be willing -- and it's --</p> <p>19 quote, I'd also be willing to entertain the</p> <p>20 possibility of coming over in May after I'm</p> <p>21 completely separated from the Navy if you needed</p> <p>22 some help with the last portion of the movie,</p> <p>23 period, closed quote. Do you see that?</p> <p>24 A Yeah.</p> <p>25 Q What did you mean by that?</p>	<p style="text-align: right;">Page 147</p> <p>1 stop you; right?</p> <p>2 A Right.</p> <p>3 Q You wanted to go to New York, no one could stop</p> <p>4 you?</p> <p>5 A Right.</p> <p>6 Q But you referenced in your e-mail that you wanted</p> <p>7 to wait until you were completely separated from</p> <p>8 the Navy. Do you see that?</p> <p>9 A Yep.</p> <p>10 Q And you wrote those words; right?</p> <p>11 A Yep.</p> <p>12 Q Is the significance that you were prohibited from</p> <p>13 being an advisor or were concerned about being</p> <p>14 prohibited from being an advisor until you were</p> <p>15 fully separated from the Navy?</p> <p>16 A No. I just simply didn't want to be involved until</p> <p>17 I had no strings attached in any way whatsoever.</p> <p>18 Down the road, hey, look, tons of former SEALs work</p> <p>19 in Hollywood. Tons of former SEALs work in all</p> <p>20 sorts of different industries to include consulting</p> <p>21 on action movies. So hey, if down the road there</p> <p>22 was a chance for me to get involved, I'd love to.</p> <p>23 But I simply did not want to do that right now.</p> <p>24 Q So it's fair to say that at that time on January 8,</p> <p>25 up until tentatively June 18 or --</p>
<p style="text-align: right;">Page 146</p> <p>1 A A lot of the work they wanted me to do was right</p> <p>2 away and be leaving the area, going over to help</p> <p>3 with the movie, wherever they were filming it. And</p> <p>4 I didn't -- again, didn't want to do that. And so</p> <p>5 I guess my thought here was -- is, hey, down the</p> <p>6 road, if there's something else and the situation</p> <p>7 and terrain changes, then if there's a chance to be</p> <p>8 involved and we can do it the right way, I'd love</p> <p>9 to be involved.</p> <p>10 Q And doing it the right way, what do you mean by</p> <p>11 that?</p> <p>12 A If we could do it in a way that made everybody feel</p> <p>13 comfortable and the way that we could do every --</p> <p>14 that everybody felt comfortable.</p> <p>15 Q Who's everybody that --</p> <p>16 A I didn't feel comfortable at that point so, again,</p> <p>17 why I chose to back away from it.</p> <p>18 Q Now, in January, you had already announced your</p> <p>19 retirement, and essentially you were on terminal</p> <p>20 leave so you were basically on vacation time;</p> <p>21 right?</p> <p>22 A Yep.</p> <p>23 Q And your time is yours; right?</p> <p>24 A Yep.</p> <p>25 Q So if you wanted to go to Hollywood, no one could</p>	<p style="text-align: right;">Page 148</p> <p>1 A 28th.</p> <p>2 Q June 28 of 2012, you were not a former SEAL;</p> <p>3 correct?</p> <p>4 A You can consider it whatever you want.</p> <p>5 Q I'm asking you.</p> <p>6 A Did I -- I don't consider myself a former SEAL now.</p> <p>7 Right. Once a Marine, always a Marine. I was a</p> <p>8 SEAL. I am a SEAL.</p> <p>9 Q You mentioned plenty of former SEALs -- that is</p> <p>10 your word --</p> <p>11 A Okay.</p> <p>12 Q -- are working in Hollywood. Why did you use the</p> <p>13 term "former SEAL" when referring to other people?</p> <p>14 A I don't know.</p> <p>15 Q But here, up and through June 28 of 2012, although</p> <p>16 you were still -- you were on terminal leave, you</p> <p>17 were still in the military; correct?</p> <p>18 A On terminal leave, yes.</p> <p>19 Q Now, on the last sentence of that paragraph, you</p> <p>20 wrote, quote, Also, any business would be going</p> <p>21 through my friend's company so it wouldn't have any</p> <p>22 direct ties to me, closed quote. Do you see that?</p> <p>23 A Yep.</p> <p>24 Q So there was a concern on your part that there be</p> <p>25 no ties to you.</p>

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1 A Again, with the security concerns and everything I
2 was dealing with, I didn't want my name out there.
3 I certainly didn't want my business out there. I
4 wanted to remain as hands off as possible for my
5 security concerns.
6 Q So it was only security concerns that were driving
7 you at that point?
8 A They drove a lot of my decisions.
9 Q Was there anything else that was driving your
10 decisions at that point in terms of waiting until
11 May before potentially being directly involved with
12 Zero Dark Thirty?
13 A Still living in Virginia Beach. I knew I had
14 issues with my ex-wife. We had a lot going on
15 internally at home. So I -- I didn't feel that I
16 needed to be off running around the globe doing
17 other things. I just simply wanted to be away from
18 this.
19 Q In the next to last sentence, you wrote, This would
20 obviously be based on how big of a deal has been
21 made of the investigations at that time, period,
22 closed quote. What investigations are you
23 referring to?
24 A And I don't even know if they were true
25 investigations, but the stuff I was reading in the

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1 press.
2 Q What stuff were you reading?
3 A About the President and Panetta and these type of
4 folks giving information to movie makers, that type
5 of thing. There was a whole bunch of back and
6 forth. And I simply didn't want to be involved in
7 it.
8 Q You were aware that, among others, Representative
9 Peter King of New York was leading an investigation
10 through the House of the leaks between the White
11 House and the CIA to the producers of Zero Dark
12 Thirty; correct?
13 A I don't know what level he was doing it at, but I
14 had heard and through the press that he was looking
15 into it.
16 Q And at that point in time, were you concerned about
17 your obligations, Matthew Bissonnette's obligations
18 as it relates to working with Dutton and with Elyse
19 Cheney in terms of writing a book?
20 A Was I concerned about my obligations with -- I
21 was -- with the book piece, I was much more in
22 control of that. Right. With the movie piece,
23 there was a whole bunch of people involved, a big
24 mess I wanted nothing to do with it. At least with
25 the book piece, I knew that I controlled it. I

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1 knew that when I went in there and sat with Ben or
2 Elyse or anybody else, I wasn't just giving them
3 every little tidbit of information from the story,
4 classified. No. I could control exactly what
5 information I told them, and I felt that that was
6 much more in my interest than to be involved with a
7 whole bunch of other folks.
8 Q You used one pseudonym, which was Mark Owen.
9 A Right.
10 Q The story goes that it was a shortened version of
11 Mark Bowden's name.
12 A I think Bowden would love to think that.
13 Q Where did you come up with the name?
14 A Out of my ass.
15 Q That's an amazing pull.
16 A My real name's much too long to sign, and I figured
17 if we were going to do a book, let's stick with a
18 shorter name.
19 Q Where did you get the name Warren West? Where did
20 that come from?
21 A Same thing.
22 Q Pulled it out of --
23 A Just dreamt it up.
24 Q And what was the point of Warren West?
25 A I was trying -- due to my reasons for security

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1 concerns, I figured the more of those names and the
2 different people I dealt with, the better. Keep
3 them guessing.
4 Q Thank you.
5 A Yep.
6 (Exhibit 11 was marked for identification.)
7 Q Mr. Bissonnette, I'm showing you what's been marked
8 as Exhibit No. 11. It's an e-mail exchange on
9 January 8 of 2012. It's between you and Elyse
10 Cheney. In the beginning of the e-mail chain,
11 referring you to the middle of the first page,
12 you're writing at 9:30 a.m. to Ben Sevier and
13 copying Elyse Cheney saying that you've been
14 working on very, very, very rough outline, which I
15 take it was a very rough outline. And it looked as
16 if your plan was to give it to Ben and to Elyse in
17 Washington, D.C., the week after.
18 A Okay.
19 Q Did that meeting take place?
20 A Yep.
21 Q And what did you produce to them on that day?
22 A Nothing. We met with -- I believe we met with
23 Kevin up there and Ben.
24 Q Kevin Maurer?
25 A Kevin Maurer and Ben.

<p style="text-align: right;">Page 153</p> <p>1 Q And did you produce a written outline?</p> <p>2 A No. That's why it was so very, very, very rough.</p> <p>3 It hadn't been done.</p> <p>4 Q So as of January 3 of 2012, you hadn't put pen to</p> <p>5 paper yet?</p> <p>6 A Not that I can remember.</p> <p>7 Q Okay. And when I say "pen to paper," that</p> <p>8 includes --</p> <p>9 A And if it was, maybe some scribbled notes or</p> <p>10 something. I don't know. Nothing detailed.</p> <p>11 Q And I'm sorry. We talked over each other. But</p> <p>12 what I meant was when you say -- when I say "pen to</p> <p>13 paper," nothing electronically, nothing on a</p> <p>14 notepad anywhere else?</p> <p>15 A Not that I can think of.</p> <p>16 Q And in the e-mail that you sent later that evening</p> <p>17 to Elyse Cheney, you asked her to remind you to</p> <p>18 talk about the Pfarrer book and -- who's an ex-SEAL</p> <p>19 who wrote a book and it wasn't censored. And you</p> <p>20 were -- in the next paragraph, you wrote, quote,</p> <p>21 Also, if this book hits speed bumps in regards to</p> <p>22 censor issues, dot, dot, dot, since there is a</p> <p>23 Captain Phillips movie coming out, what if we</p> <p>24 worked on the book specifically related to that</p> <p>25 topic and released it with the movie? Just a</p>	<p style="text-align: right;">Page 155</p> <p>1 within minutes at 4:00 -- 4:07 that day. Is that</p> <p>2 the first time you ever learned who Kevin Podlaski</p> <p>3 was?</p> <p>4 A I believe so.</p> <p>5 Q And up until the time of this lawsuit, had you ever</p> <p>6 met Kevin personally?</p> <p>7 A No.</p> <p>8 Q So it was all by phone?</p> <p>9 A Yep.</p> <p>10 Q And by e-mails?</p> <p>11 A Yes.</p> <p>12 Q Did you do any vetting on your own to -- about</p> <p>13 Podlaski?</p> <p>14 A Not that I remember specifically other than asking</p> <p>15 around. I talked to Kevin about him, Kevin Maurer.</p> <p>16 Yeah, I may have had conversations with Elyse and</p> <p>17 Ben, but I don't recall specifics.</p> <p>18 Q Was there any thought of using Richard Heller to</p> <p>19 represent you in connection with the book?</p> <p>20 A No. I had -- I had come from -- my team analogies.</p> <p>21 Right. Always work as a team and everybody's got</p> <p>22 their specialists. I never thought Heller was a</p> <p>23 guy with the background and credibility to handle</p> <p>24 this. This wasn't his specialty, just like Luskin</p> <p>25 wasn't a specialty in book reviews. Everything I</p>
<p style="text-align: right;">Page 154</p> <p>1 thought.</p> <p>2 Can you explain what you mean by that?</p> <p>3 A I don't know. Sounds like I had the idea if there</p> <p>4 was a Captain Phillips book coming -- or a movie</p> <p>5 coming out, maybe we could write something that was</p> <p>6 timed with the same release, just a thought.</p> <p>7 Q Well, the reference to censor issues, is that a</p> <p>8 concern that the government was not going to permit</p> <p>9 you to write the book?</p> <p>10 A No. And Pfarrer -- I don't know. I haven't read</p> <p>11 his book. I just know he's kind of a nut job</p> <p>12 that's come up with a whole bunch of different</p> <p>13 things. His book wasn't censored so his book</p> <p>14 didn't -- I don't know. I don't know what I meant.</p> <p>15 Q I would agree with the nut job part of that.</p> <p>16 (Exhibit 12 was marked for identification.)</p> <p>17 RANDAL JOHNSTON: Am I on 12 now?</p> <p>18 MR. FURMAN: Yeah.</p> <p>19 Q Now, this is January 10 of 2012. And I'm referring</p> <p>20 you to an e-mail from Scott Miller who, I believe,</p> <p>21 is an agent for Kevin Maurer. And he's writing to</p> <p>22 Elyse Cheney about Kevin Maurer's assignment, his</p> <p>23 deal. But at the end of the e-mail, it says that</p> <p>24 the attorney who assisted Dalton Fury is Kevin</p> <p>25 Podlaski. And Elyse forwards you that e-mail</p>	<p style="text-align: right;">Page 156</p> <p>1 had heard about Mr. Podlaski's background was a</p> <p>2 former SOCOM JAG, had represented other authors</p> <p>3 with my -- you know, very similar backgrounds. So</p> <p>4 that to me trumped everybody else in regards to</p> <p>5 this being the guy with the right amount of</p> <p>6 information that we need to do this.</p> <p>7 MR. FURMAN: And just a reference to -- and</p> <p>8 I'll spell it because it's a particular name, the</p> <p>9 guy that was referred to as a nut job.</p> <p>10 P-F-A-R-R-E-R.</p> <p>11 Q Mr. Pfarrer was at one point in his life a Navy</p> <p>12 SEAL; correct?</p> <p>13 A I guess so.</p> <p>14 Q From what you know?</p> <p>15 A From what I know.</p> <p>16 Q You never worked with him?</p> <p>17 A No.</p> <p>18 Q And he's written several books and is kind of out</p> <p>19 there in the public?</p> <p>20 A Sure.</p> <p>21 Q And he writes military based books, fiction or</p> <p>22 nonfiction or something in between?</p> <p>23 A Yes.</p> <p>24 Q And to the best of your knowledge, has he ever run</p> <p>25 into any resistance from the Department of Defense?</p>

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1 A Not that I know of.
 2 Q Or from the CIA?
 3 A Not that I know of.
 4 Q And do you know whether or not Ms. X received
 5 permission from the Department of Defense or the
 6 CIA to speak about Operation Neptune to Mark Boal
 7 and Kathryn Bigelow?
 8 A Yes. Ms. X got permission directly from Leon
 9 Panetta.
 10 Q And in connection with No Easy Day, did you
 11 consider asking for that same permission?
 12 A No.
 13 Q Why not?
 14 A I didn't think -- I saw everybody else kind of
 15 doing their thing. We knew we wanted to move
 16 forward with a book. We had made that decision.
 17 We put the team together. And then based off the
 18 advice that I got, it didn't sound like we needed
 19 to go back and get that approval or ask.
 20 Q Well, in your first meetings with Elyse Cheney in
 21 and around the time that you had turned down Mark
 22 Boal, could you have asked Leon Panetta for
 23 permission or --
 24 A Sure, but I hadn't agreed to write the book at that
 25 point either. I just said, Hey, look, we are

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1 definitely moving down the road. Hey, let's look
 2 at this. Let's do our intel study. Let's figure
 3 out what we need to do. Okay. There's an issue
 4 here where we need to make sure we're getting the
 5 right legal advice from the right type of person
 6 who has this type of background. Brought them into
 7 the team and then moved forward from there. So
 8 again -- yeah.
 9 Q And when you spoke to Elyse Cheney and Ben Sevier
 10 and described the outline of what became No Easy
 11 Day, did you seek permission from anyone at the
 12 Department of Defense or the CIA before you
 13 discussed it with those individuals?
 14 A No, because those meetings weren't me sitting down
 15 regurgitating everything I knew. Those initial
 16 meetings were, Elyse, talk to me. Ben, talk to me.
 17 How does this work? Talk big picture stuff. Not,
 18 Hey, guys, let's sit down and let me tell you the
 19 whole story. That wasn't it at all. We needed to
 20 get to the right point before we really started
 21 getting into the weeds and putting pen to paper and
 22 really going through those motions and even signing
 23 the contract.
 24 Q Well, did you at least tell Elyse Cheney and Ben
 25 Sevier when you met with him in December of 2011,

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1 January of 2012 that you were an operator and had
 2 first account information about the operation
 3 itself?
 4 A Sure.
 5 Q And did you tell them what your position was in
 6 that operation?
 7 A That I was on the mission, yeah. I think that was
 8 pretty understood that I was there.
 9 Q Did you tell them that you were in the house, for
 10 example?
 11 A Yes.
 12 Q Did you tell them that you went up the stairs into
 13 the house?
 14 A Any of those first meetings, we did not get into
 15 details. As I said a minute ago, it was much more
 16 initial meetings or, look, just like -- put it in
 17 an operation analogy. Right. If we're going to go
 18 assault the target, we're going to get all the
 19 people together. We're going to figure out what we
 20 need to get to that target, and then we're going to
 21 execute it slowly. This was not me going up there
 22 running to tell them all the details of the story.
 23 Those initial meetings were absolutely about
 24 me trying to understand the process and the concept
 25 of how all this worked. And we slowly moved

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1 forward. At no point did just me meeting Elyse or
 2 sitting down with her -- was that in my mind
 3 saying, okay, this is going to happen. No
 4 questions asked. We're doing a book.
 5 Q Well, I'm more interested in asking you what you
 6 told them.
 7 A It was much more on the -- Hey, what does it take
 8 to do a book? How does this work? What does this
 9 look like? How does the process work? This was
 10 much more of a fact-finding mission than it was me
 11 sitting down giving them a whole bunch of
 12 inner-working details.
 13 Q Well, did they ask you any questions about your
 14 role in the operation?
 15 A I'm sure they would have. I'm sure they did.
 16 Q And what did you tell them?
 17 A That I was -- that I was on the mission, gave them
 18 the vague overview rundown and went from there.
 19 Q What was the vague overview rundown?
 20 A That I was on the mission, that I was on the
 21 helicopter that crashed. I had been in the
 22 military 14 years. I had done a whole bunch of
 23 deployments. I had done this, this, this. This
 24 is -- you know, it's an overview. Nothing
 25 different than what I would tell my neighbor or

<p style="text-align: right;">Page 161</p> <p>1 anybody else.</p> <p>2 Q Other than the fact that you were on the helicopter</p> <p>3 that crashed, anything else about your involvement</p> <p>4 in that operation inside the compound?</p> <p>5 A I don't remember any specifics.</p> <p>6 (Exhibit 13 was marked for identification.)</p> <p>7 Q This will be Exhibit No. 13. On January 10, this</p> <p>8 is an e-mail from you to Elyse Cheney. On that</p> <p>9 date, Ben Sevier is e-mailing you and there was a</p> <p>10 discussion of a title idea called All In. And</p> <p>11 Mr. Sevier learned that General Petraeus,</p> <p>12 P-E-T-R-A-E-U-S, has a memoir using that title.</p> <p>13 And then the question from Elyse Cheney is, when is</p> <p>14 his book publishing? And you wrote, Let's beat him</p> <p>15 to the punch. Do you see that?</p> <p>16 A Yep.</p> <p>17 Q What do you mean by "beat him to the punch"? What</p> <p>18 does that mean?</p> <p>19 A I don't know. Let's get our book out in front of</p> <p>20 him. Let's get -- let's snag the title before him.</p> <p>21 I don't know. I've always liked the title All In.</p> <p>22 I don't know.</p> <p>23 Q Were you concerned about beating him to the punch</p> <p>24 in the sense of releasing a book before his?</p> <p>25 A I don't see why that would be a big rush because</p>	<p style="text-align: right;">Page 163</p> <p>1 A I told them I would write a book and they said,</p> <p>2 Okay. Here -- they knew I'd been on the raid. The</p> <p>3 book was going to be about the raid and my</p> <p>4 upbringing in the SEAL community, and I think</p> <p>5 that's about how they came up with those numbers.</p> <p>6 Q And what about the raid did you tell them?</p> <p>7 A Very little.</p> <p>8 Q So based on you telling them very little, they</p> <p>9 offered to pay you a million dollars in advance?</p> <p>10 A Apparently.</p> <p>11 (Exhibit 14 was marked for identification.)</p> <p>12 Q On January 12 -- I'm referring now to the middle of</p> <p>13 this document, the first page of this document --</p> <p>14 there's an e-mail at 12:18 p.m. from Elyse Cheney.</p> <p>15 And it states, Hi there. I hope you're having a</p> <p>16 blast in CR. Here's the scoop. You may not even</p> <p>17 need to respond until you're back. Well, first,</p> <p>18 were you in Costa Rica?</p> <p>19 A I'm sorry. Where are you at? I'm sorry.</p> <p>20 Q In the middle. Just out of my own curiosity,</p> <p>21 what's CR?</p> <p>22 A CR? I don't know.</p> <p>23 Q Well, you're having a blast somewhere. Do you</p> <p>24 recall where you were having a blast in January of</p> <p>25 2012?</p>
<p style="text-align: right;">Page 162</p> <p>1 Petraeus -- there's plenty of generals that get out</p> <p>2 and write books.</p> <p>3 Q When did you sign the contract with Dutton?</p> <p>4 A I don't know the exact day.</p> <p>5 Q And did you discuss what the advance was going to</p> <p>6 be?</p> <p>7 A Yeah.</p> <p>8 Q And that was a million-dollar advance?</p> <p>9 A Yes.</p> <p>10 Q And did you discuss the amount of that advance</p> <p>11 before you hired Kevin Podlaski?</p> <p>12 A I don't remember.</p> <p>13 Q Well, did Kevin Podlaski negotiate the</p> <p>14 million-dollar advance for you?</p> <p>15 A I don't -- no, I don't think so because I think</p> <p>16 that number was produced through Elyse and Ben. So</p> <p>17 no, I don't think so.</p> <p>18 Q So the million dollars, once the contract was</p> <p>19 signed, that was going to be sent over to you;</p> <p>20 right?</p> <p>21 A In installments.</p> <p>22 Q Well, what information did you give Ben Sevier and</p> <p>23 Elyse Cheney that led them to pay you a million</p> <p>24 dollars in advance? What information did you tell</p> <p>25 them?</p>	<p style="text-align: right;">Page 164</p> <p>1 A CR? Doesn't ring a bell.</p> <p>2 RANDAL JOHNSTON: Object to the form of the</p> <p>3 question.</p> <p>4 MR. FURMAN: Okay. That's all right. It</p> <p>5 won't ever get anywhere, that question.</p> <p>6 Q The number two below, there's a number of points</p> <p>7 that Elyse is making. But number two, it states,</p> <p>8 We have a different lawyer now in terms of military</p> <p>9 stuff. It's a guy actually in Indiana who is a</p> <p>10 specialist -- special forces guy himself and an</p> <p>11 attorney there and who knows the agreements that</p> <p>12 anyone enlisted signs. The key is that this lawyer</p> <p>13 be hired by Penguin eventually to vet the</p> <p>14 manuscript and make sure essentially that Mark is</p> <p>15 not revealing, quote, operational tactics,</p> <p>16 technique, and procedures, closed quote. Do you</p> <p>17 see that?</p> <p>18 A Yeah.</p> <p>19 Q And was the idea that Mr. Podlaski would be hired</p> <p>20 by Penguin?</p> <p>21 A No. He'd be hired by me to represent me on the</p> <p>22 book.</p> <p>23 Q Did you speak to Mr. Podlaski before this e-mail?</p> <p>24 A I don't believe so.</p> <p>25 Q And did you look for any other lawyers?</p>

<p style="text-align: right;">Page 165</p> <p>1 A No.</p> <p>2 Q So was it basically this introduction, and that's</p> <p>3 the means by which you retained Mr. Podlaski?</p> <p>4 A I don't know that it was this alone. If you're</p> <p>5 referring to this e-mail alone, I don't know that</p> <p>6 it was just that. But yeah, this is obviously part</p> <p>7 of it. And she's making the introduction. This</p> <p>8 was part of assembling the team to make sure we</p> <p>9 tried to do this the right way. We knew there</p> <p>10 would be -- right. We had seen the oversight with</p> <p>11 the movie and everything else. We wanted to make</p> <p>12 sure we were doing things the right way.</p> <p>13 Q Did you tell Kevin Podlaski that you were in any</p> <p>14 way involved with having a discussion with</p> <p>15 producers of Zero Dark Thirty?</p> <p>16 A No.</p> <p>17 MR. FURMAN: Just off the record for a moment.</p> <p>18 (A brief recess was taken.)</p> <p>19 BY MR. FURMAN:</p> <p>20 Q So on Document Number 14, it appears as if the</p> <p>21 e-mail exchange was with Richard Heller and Elyse</p> <p>22 Cheney. So the reference to having a blast in CR</p> <p>23 obviously was not directed to Mr. Bissonnette. And</p> <p>24 the reference to it obviously was a reference to</p> <p>25 Mr. Heller. The -- though I will ask a question</p>	<p style="text-align: right;">Page 167</p> <p>1 Q And you knew how to get them?</p> <p>2 A Yeah, I knew the right office to go to. I could</p> <p>3 have -- could have started asking around to the</p> <p>4 right people, yeah.</p> <p>5 Q So if I understand you correctly, Mr. Podlaski --</p> <p>6 he didn't tell you not to get them, right? Is that</p> <p>7 what you're saying?</p> <p>8 A He never asked me to get them. He never said --</p> <p>9 had he asked me, Go get this agreement and show it</p> <p>10 to me, I would have gone and gotten it.</p> <p>11 Q And did you tell Mr. Podlaski that you signed these</p> <p>12 nondisclosure agreements that were in Exhibit</p> <p>13 No. 1?</p> <p>14 A I didn't know what I had signed. I knew I had</p> <p>15 signed some documents throughout my 14-year career.</p> <p>16 I knew I had signed a lot of documents. I knew</p> <p>17 they ranged a ton of different topics, so --</p> <p>18 Q And --</p> <p>19 A So no, I did not know what specific documents that</p> <p>20 I had signed.</p> <p>21 Q At the time that you were discussing this matter</p> <p>22 with Mr. Podlaski, is it fair to say that you knew</p> <p>23 at least at that point in time that you did, in</p> <p>24 fact, sign, as you described, a lot of different</p> <p>25 documents over the course of your 14-year career?</p>
<p style="text-align: right;">Page 166</p> <p>1 about this document. This e-mail chain obviously,</p> <p>2 Exhibit No. 14, is between Richard Heller and Elyse</p> <p>3 Cheney. I misstated. I thought you were involved</p> <p>4 in it. But was it around this time that you first</p> <p>5 learned about Kevin Podlaski?</p> <p>6 A Yes.</p> <p>7 Q And did there come a time when eventually you</p> <p>8 signed a contract with Dutton on February 10 of</p> <p>9 2012?</p> <p>10 A I don't remember the dates, but yeah. I eventually</p> <p>11 signed a contract, yes.</p> <p>12 Q Okay. And did Mr. Podlaski assist in the</p> <p>13 negotiation of that contract?</p> <p>14 A Yes.</p> <p>15 Q Did you provide Mr. Podlaski with any of the</p> <p>16 nondisclosure agreements that you executed</p> <p>17 previously in January of 2007?</p> <p>18 A I was asked about them but never asked to provide.</p> <p>19 Q So Mr. Podlaski asked you about them?</p> <p>20 A Yeah. Talked about what nondisclosures I may or</p> <p>21 may not have signed.</p> <p>22 Q And did Mr. Podlaski ask you to get them?</p> <p>23 A No.</p> <p>24 Q Did he tell you not to get them?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 168</p> <p>1 A Is it safe to assume that --</p> <p>2 Q You signed a lot of documents over the course of</p> <p>3 your --</p> <p>4 A Absolutely.</p> <p>5 Q -- 14-year career?</p> <p>6 And some of those documents would have</p> <p>7 included the handling of classified information;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q And you knew that when you retained Mr. Podlaski,</p> <p>11 correct?</p> <p>12 A Right.</p> <p>13 Q And you didn't go get them from the Navy?</p> <p>14 A I was never asked to go get them. I was never</p> <p>15 told, Please produce these exact documents X, Y,</p> <p>16 and Z.</p> <p>17 Q Did Mr. Podlaski ask you if Operation Neptune Spear</p> <p>18 was a special access program?</p> <p>19 A I believe so. We had a lot of discussions about</p> <p>20 what was classified at what levels.</p> <p>21 Q And what did you tell Mr. Podlaski?</p> <p>22 A That I didn't remember what had been signed and</p> <p>23 what level and again, back to the documents, what I</p> <p>24 had signed over my career.</p> <p>25 Q And did you authorize Mr. Podlaski to get that</p>

<p style="text-align: right;">Page 169</p> <p>1 information on your behalf?</p> <p>2 A He didn't ask to be authorized to seek it on my</p> <p>3 behalf.</p> <p>4 Q Did you at that point want anyone in the military</p> <p>5 to know you were writing a book?</p> <p>6 A No. And I'm reading here in this e-mail. It</p> <p>7 sounds like even from Podlaski, he was recommending</p> <p>8 that we not reference writing a book to anybody</p> <p>9 else. So the advice, again, we were getting was</p> <p>10 let's maybe not tell anybody about this. And then</p> <p>11 I was never asked to produce any of the documents.</p> <p>12 Q Well, up until the time that you met Mr. Podlaski,</p> <p>13 you -- let me take that back.</p> <p>14 At the time that you met Mr. Podlaski, you had</p> <p>15 fully intended to write the book; correct?</p> <p>16 A We were -- was the book going to happen no matter</p> <p>17 what? No.</p> <p>18 Q No, no. I didn't ask that.</p> <p>19 A Had I decided that I wanted to move forward with</p> <p>20 the idea of writing a book? Yes.</p> <p>21 Q Yeah. So I'll go back to what the deposition is --</p> <p>22 I know you want to answer the questions you want to</p> <p>23 answer.</p> <p>24 A Sorry. My bad. My bad.</p> <p>25 Q That's okay. No, that's all right. Because they</p>	<p style="text-align: right;">Page 171</p> <p>1 upside to running around telling people that you're</p> <p>2 writing a book. People can judge a million</p> <p>3 different ways. And I chose to not disclose that.</p> <p>4 Q Aside from the judging, were you concerned that you</p> <p>5 would have been prohibited from writing a book?</p> <p>6 A No, not at that time.</p> <p>7 Q And after you signed the agreement with Dutton, did</p> <p>8 you tell anyone in the military that you were</p> <p>9 writing the book?</p> <p>10 A No, because by the time we'd signed the agreements</p> <p>11 and made it official, I had received the advice I</p> <p>12 had received from Mr. Podlaski, which was, you</p> <p>13 know, you don't need to get it -- he could vet the</p> <p>14 book and that we should keep this as quiet as we</p> <p>15 could.</p> <p>16 Q Now, at that point in time, did you tell</p> <p>17 Mr. Podlaski that you were on terminal leave?</p> <p>18 A I forget how I defined my -- what current status</p> <p>19 that I was on.</p> <p>20 Q Well, did you tell Mr. Podlaski whether you were</p> <p>21 discharged or not?</p> <p>22 A I don't know what verbiage I used to describe my</p> <p>23 status. I don't remember.</p> <p>24 Q So do you remember -- this is a simple question.</p> <p>25 Do you remember whether or not you told him you</p>
<p style="text-align: right;">Page 170</p> <p>1 do that in debates. This is not a debate. I ask a</p> <p>2 question. You have to answer it. And, of course,</p> <p>3 Mr. Johnston is not a potted plant. He can object.</p> <p>4 So my question is, by the time that you had</p> <p>5 contacted Mr. Podlaski and signed a retainer with</p> <p>6 him, was it already a deal in place with Dutton and</p> <p>7 with Elyse Cheney's help to write a book that would</p> <p>8 eventually become No Easy Day?</p> <p>9 A I do not believe there was a deal in place, no.</p> <p>10 Q Was there an idea to do that?</p> <p>11 A Sure.</p> <p>12 Q And was the idea advanced to the point where you</p> <p>13 knew the amount, for example, of the advanced</p> <p>14 payment from Penguin?</p> <p>15 A I believe so.</p> <p>16 Q So by the time that you had met Mr. Podlaski, you</p> <p>17 knew that there was a million-dollar advance</p> <p>18 waiting for you once you agreed to write the book;</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q And up until that point in time, did you tell</p> <p>22 anyone in the Navy that you were writing a book?</p> <p>23 A No.</p> <p>24 Q Why not?</p> <p>25 A As I answered several times already, there's no</p>	<p style="text-align: right;">Page 172</p> <p>1 were discharged or not from the military?</p> <p>2 A I don't remember because there's a difference</p> <p>3 between terminal leave, discharge. I don't</p> <p>4 remember. I would have said -- I don't -- I don't</p> <p>5 remember.</p> <p>6 Q But you were discharged on June 28 of 2012?</p> <p>7 A Right.</p> <p>8 Q Did you tell Mr. Podlaski on that day that you were</p> <p>9 officially discharged?</p> <p>10 A I don't believe so.</p> <p>11 Q I skipped an e-mail that I just had one question</p> <p>12 about. Did you have a meeting at some point with</p> <p>13 Robert De Niro?</p> <p>14 A Uh-huh.</p> <p>15 Q When did that take place?</p> <p>16 A In New York. Had nothing to do with business. It</p> <p>17 was when we went up there for New York with a whole</p> <p>18 bunch of us who had never been in New York City</p> <p>19 before. We -- a mutual friend of ours knew him and</p> <p>20 invited him to a -- to our gathering to introduce</p> <p>21 him and have us get a chance to meet De Niro.</p> <p>22 Q And did you discuss any business opportunities with</p> <p>23 Mr. De Niro?</p> <p>24 A Afterwards, he had approached me to do some</p> <p>25 possible work with him. And they have a TV,</p>

<p style="text-align: right;">Page 173</p> <p>1 something or other, show, network, whatever they've 2 got going on up in New York. I had a couple -- I 3 don't know that I ever met De Niro again. But then 4 backed away from it. 5 Q And he's got a film company that has the term 6 "Tribeca" in it. 7 A Tribeca. 8 Q And I think it's called Tribeca Film Productions. 9 When did those meetings take place? 10 A I don't know. I wouldn't even classify them as 11 real business meetings. We had met him once, and 12 there was a whole group of us there. One of my 13 friends has become good friends with De Niro and is 14 good friends with him to this day. So I wouldn't 15 call it any real business meetings, but I met him 16 the -- once when we were up there. 17 Q And the opportunity that he discussed with you 18 about -- you mentioned a TV show. 19 A In theory. 20 Q In theory? 21 A The idea of, hey, maybe we could all work together 22 and do something. I don't even know that that 23 was -- again, I don't recall the exact 24 conversation. 25 Q And would that involve your military career</p>	<p style="text-align: right;">Page 175</p> <p>1 A Yeah. 2 Q And what were the different platforms that she was 3 referencing? 4 A I don't think that we really got into details. The 5 conversation I remember having via phone, and she 6 was very interested in helping me evolve any of my 7 different business ventures and wanted to be a part 8 of that. 9 Q Now, the various business ventures, they all in one 10 form or another related to your military service? 11 A No. 12 Q Were they military based? 13 A No. Could be any type of business venture that we 14 could tag-team. 15 Q Well, the different platforms that were described 16 in this e-mail, what did they involve? 17 A Probably writing, media. I don't know any other -- 18 plenty of other platforms; instructional, corporate 19 speaking, kids books, toys, games, you name it, 20 anything that we could create she wanted to be a 21 part of. 22 Q And when you say we can create, what would it be 23 based on? 24 A It could be anything, any opportunity we had that 25 we could create something together and create a</p>
<p style="text-align: right;">Page 174</p> <p>1 obviously? 2 A I don't know. It never even got to that level. 3 Q So it was just no subject matter, just talk about 4 making a movie together? 5 A Whole bunch of guys getting out of the military 6 saying, Hey, what could we do next? Do you need 7 help with any -- what can we do? What can we do? 8 It never progressed further than that on my level. 9 (Exhibit 15 was marked for identification.) 10 Q Document 15 is an e-mail exchange that's dated 11 April 6 of 2012. It's between Richard Heller and 12 Elyse Cheney. In the e-mail that is from Elyse 13 Cheney to Richard Heller dated April 6, 2012, it 14 states, Hi, finally talked with Mark yesterday. 15 He's on board with everything. My being producer 16 and us tag-teaming on stuff with me kind of 17 orchestrating -- orchestra leading all the 18 different platforms that I hope we can pursue. 19 He's going to send an e-mail to Jay and Adam 20 telling me he wants me at the Spielberg meeting - 21 the pitch one - today. Do you see that? 22 A Okay. 23 Q Now, do you remember having a discussion with Elyse 24 Cheney about her being a producer along with the 25 various ventures you were interested in pursuing?</p>	<p style="text-align: right;">Page 176</p> <p>1 business out of. She wanted to be a part of it. 2 Q Well, the Spielberg movie, that was a pitch that 3 related to a military type of movie; correct? 4 A Yep. 5 Q And it was based on your experiences -- your 6 military experiences; correct? 7 A Not mine specifically. 8 Q But you were going to -- 9 A The SEAL community. 10 Q The SEAL community. Okay. So it would be -- you 11 would be the creative end of it in terms of 12 providing information about the SEAL community that 13 would eventually be part of this pitch to 14 Spielberg; correct? 15 A That would be the concept. 16 Q Did you run that by Kevin in terms of whether -- 17 Kevin Podlaski, whether that would have been 18 appropriate to do based on your military status? 19 A Not that I remember. 20 Q Did you speak to anyone as to whether doing that 21 kind of thing, for example, speaking to Spielberg 22 and people at DreamWorks about a military 23 SEAL-based production, whether that would have 24 violated any disclosure agreements you have? 25 A Those type of meetings -- again, former SEALs get</p>

<p style="text-align: right;">Page 177</p> <p>1 out and work in Hollywood all the time. I had no</p> <p>2 reason to believe I was doing anything outside of</p> <p>3 the bounds of what had been done for years.</p> <p>4 Q Did you seek legal advice on that?</p> <p>5 A No, not at this point.</p> <p>6 Q And did you eventually have that pitch meeting with</p> <p>7 DreamWorks and Spielberg representatives?</p> <p>8 A Yes.</p> <p>9 Q And where did that take place?</p> <p>10 A California.</p> <p>11 Q And what was the outcome of that?</p> <p>12 A They said they were interested. They would -- we'd</p> <p>13 start seeing what we could develop.</p> <p>14 Q And what happened after that?</p> <p>15 A It ended up going away. We worked on it for a</p> <p>16 while and then HBO had teamed up with DreamWorks</p> <p>17 and then HBO pulled out of the deal.</p> <p>18 Q Did you tell Kevin Podlaski about any of that?</p> <p>19 A Not that I remember.</p> <p>20 Q Why not?</p> <p>21 A Didn't see that -- him -- that being his specialty.</p> <p>22 A team of people involved and...</p> <p>23 Q And did you tell Kevin Podlaski about any other</p> <p>24 ventures that you were engaged in other than the</p> <p>25 writing of the book No Easy Day?</p>	<p style="text-align: right;">Page 179</p> <p>1 A No.</p> <p>2 Q And you didn't provide him with any information</p> <p>3 about those opportunities or those business</p> <p>4 ventures that you were trying to get into?</p> <p>5 A No, not that I remember.</p> <p>6 Q This next one will be 16.</p> <p>7 (Exhibit 16 was marked for identification.)</p> <p>8 Q After you signed the contract with Dutton, did you</p> <p>9 have an understanding of when the book would be</p> <p>10 published?</p> <p>11 A After I signed the contract with Dutton, did I have</p> <p>12 an -- yes. I believe it was -- it might have even</p> <p>13 been in the contract of delivery dates.</p> <p>14 Q And what was your understanding?</p> <p>15 A I don't remember the dates off the top of my head.</p> <p>16 Q Was it before or after the election?</p> <p>17 A It was -- I know it had to have been somewhere in</p> <p>18 there close because I had wanted to do September 11</p> <p>19 as the release date.</p> <p>20 Q Why did you want to use September 11 as the release</p> <p>21 date?</p> <p>22 A We knew there was -- it was an election year. And</p> <p>23 we knew the politics being what they are, that</p> <p>24 people could try and politicize this book where I</p> <p>25 was trying very hard not to politicize this book</p>
<p style="text-align: right;">Page 178</p> <p>1 A I don't think so.</p> <p>2 Q For example, did Mr. Podlaski know of your</p> <p>3 involvement with EA?</p> <p>4 A I don't know. I don't know that I ever -- I don't</p> <p>5 remember addressing it with him, but I -- there was</p> <p>6 certainly lots of communication back and forth with</p> <p>7 Elyse and Heller and different folks. I don't --</p> <p>8 maybe he got wind of that. I don't know.</p> <p>9 Q I'm not asking you about whether you think he got</p> <p>10 wind of it. I'm asking you if you ever consulted</p> <p>11 with Mr. Podlaski --</p> <p>12 A Not that I remember.</p> <p>13 Q -- about your involvement with Electronic Arts?</p> <p>14 A Not that I remember.</p> <p>15 Q And how about with Element Group?</p> <p>16 A Not that I remember.</p> <p>17 Q How about with speaking engagements that you were</p> <p>18 trying to line up?</p> <p>19 A Not that I remember.</p> <p>20 Q How about with the Fortis Group, which I think was</p> <p>21 a vehicle through which you --</p> <p>22 A No.</p> <p>23 Q -- gave speeches?</p> <p>24 A No.</p> <p>25 Q So you didn't involve Mr. Podlaski in any of those?</p>	<p style="text-align: right;">Page 180</p> <p>1 and make it very apolitical. So I felt that</p> <p>2 September 11, certainly with the history of</p> <p>3 bin Laden and that date, would be an appropriate</p> <p>4 date to release it on.</p> <p>5 Q So in other words, to maximize the interest in the</p> <p>6 book and, of course, the sales that would go along</p> <p>7 with it, releasing it by September 11 was the date</p> <p>8 that you had in mind?</p> <p>9 A I liked the idea of September 11 because of the</p> <p>10 reasons I just described.</p> <p>11 Q And was part of that formula an interest in trying</p> <p>12 to have the book reach the maximum amount of</p> <p>13 exposure in terms of publicity?</p> <p>14 A Sure. I don't think that I was the one who dreamt</p> <p>15 that up. I think that came more from Ben and the</p> <p>16 publishing house. They were the ones who kind of</p> <p>17 set out the overall schedule. I think wherever</p> <p>18 that schedule fell out was pretty close to</p> <p>19 September, November time frame. And that's why I</p> <p>20 picked the -- or I asked for the 11th.</p> <p>21 Q At that point in time -- and I'm referring you now</p> <p>22 to the date of the contract with Dutton,</p> <p>23 February 10 of 2012 -- were you aware of anyone</p> <p>24 else writing a book about the raid on Pakistan that</p> <p>25 was Operation Neptune Spear?</p>

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1 A We -- when we signed the contract?

2 Q Yes.

3 A No.

4 Q There was a long article in the New Yorker Magazine

5 written by -- gosh, I should know his name --

6 Schmidle --

7 A Eric Schmidle?

8 MR. FURMAN: Good luck, Julie. I think it's

9 S-C-H-M-I-D-L-E.

10 Q Were you one of the sources for that publication?

11 A No.

12 Q Did you read it?

13 A Yes.

14 Q What was your impression when you read it?

15 A It was pretty accurate.

16 Q Did you ask who the source was for that

17 information?

18 A There was plenty of rumor mill going around, but

19 nothing ever confirmed.

20 Q And who was rumored to be the source?

21 A I won't name names, but it -- but a high-ranking

22 captain, SEAL captain who was involved in planning,

23 executing the raid, and was a liaison with the

24 agency.

25 Q Was it Admiral McRaven?

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1 A No.

2 Q And were you aware or were there any rumors of

3 anyone writing a book about the raid itself?

4 A Not that I had heard.

5 Q All right. I've shown you what's been marked as

6 Exhibit No. 16. I know you've had an opportunity

7 to glance at it. On the first page of the e-mail

8 came from you to Elyse Cheney. The date of it is

9 May 22, 2012, at 5:11 p.m. The subject is, Reply

10 from Bowden. And it states, I hope to finish

11 writing by the end of July, Matt. My publisher is

12 eager to put out in the fall, but I'm not sure it

13 will make it out prior to Election Day. Does it

14 matter to you, question mark? M.B. Is that an

15 e-mail that you received from the author, Mark

16 Bowden?

17 A Yes.

18 Q And what caused Mr. Bowden to write that to you?

19 A We had been connected through a mutual friend, and

20 he knew that I was one of the ground forces on the

21 raid and wanted to talk to me about doing an

22 interview for his book.

23 Q Who's the mutual friend?

24 A I'm not naming names. Former SEAL, former SEAL

25 officer that's gotten out and started a business.

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1 Q Okay. We'll leave a blank in the record. I'm not

2 interested at all frankly, just really not

3 interested, in gossip or finding out people's

4 information, and I don't want also frankly to ruin

5 anyone's career. But to the extent that it's

6 relevant, I want to leave a blank in the transcript

7 just so in case that we need to follow through on

8 this, if we need to follow up with any questions,

9 we'll do so. That's why I'm doing that.

10 When did you get that contact from that mutual

11 friend?

12 A I don't remember.

13 Q Was it after you signed the contract with Dutton?

14 A I would say it was right -- I don't know. I'm

15 guessing that it's somewhere near this time frame

16 when we reached out via e-mail.

17 Q Now, Elyse Cheney writes to you at 6:22 p.m.,

18 quote, I would just say -- another quote -- just

19 curious as to whether it was coming out pre or post

20 election, closed quote. Why was Elyse Cheney

21 writing that to you?

22 A No idea.

23 RANDAL JOHNSTON: Objection; foundation.

24 Q Did Elyse Cheney write that to you?

25 A Appears so.

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1 Q Okay. Did you ask her to formulate a response to

2 Mr. Bowden?

3 A Not that I remember.

4 Q At the top of this e-mail chain, it's dated May 22,

5 2012, at 6:34 p.m. And the subject is, Even more

6 from Bowden. And it states here, If interviewing

7 you is an option, Matt, I will -- and I have to

8 wait, comma, I would wait -- let me -- I'll say it

9 again. If interviewing you is an option, comma,

10 Matt, comma, and I have to wait, comma, I would

11 wait. M.B. Do you see that?

12 A Yes.

13 Q Is that what Mark Bowden wrote to you?

14 A I believe so.

15 Q And he was interested in interviewing you and

16 getting you to have an input in his book that

17 eventually became the book, quote, The Finish --

18 A Yes.

19 Q -- by Mark Bowden, that he was willing to wait to

20 publish it until he had a chance to talk to you.

21 A Apparently.

22 Q And you forwarded that to Elyse Cheney, that

23 information?

24 A Yes.

25 Q Why?

<p style="text-align: right;">Page 185</p> <p>1 A She was my literary agent. We're writing a book. 2 I felt that that would be something that she'd be 3 interested in. 4 Q But at that point, were you competing with 5 Mr. Bowden to have the first book out on the raid 6 itself? 7 A No. I think this was the first time we heard there 8 might be another book coming out that was a similar 9 topic. So it's probably why I forwarded it to 10 Elyse. 11 Q Did you tell Mr. Bowden that you were writing a 12 book? 13 A No. 14 Q Did you tell Mr. Bowden by this time you had signed 15 a contract to write a book? 16 A No. 17 Q Why not? 18 A I didn't feel like he needed to know it. 19 Q But you also knew at the time he was asking you to 20 be a source for his book? 21 A Right. He had explained to me that he had already 22 talked to the President of the United States and 23 interviewed Obama. He explained to me he had 24 already interviewed Admiral McRaven. I was his 25 third piece to put it in his book. And you saw the</p>	<p style="text-align: right;">Page 187</p> <p>1 A I don't remember what she told me specifically 2 about it. 3 (Exhibit 17 was marked for identification.) 4 Q Before we focus on Document Number 17, I just want 5 to talk about Mark Bowden just for a moment. 6 You're aware that he was interviewed by The 7 Atlantic after your book was released and he talked 8 about conversations with you; correct? 9 A No. I'm assuming he's done interviews, but I don't 10 read his interviews. 11 Q Are you friendly with Mark Bowden? 12 A I've talked to him, the -- what, twice on the phone 13 maybe. 14 Q So you had no relationship with him? 15 A No, zero. 16 Q There was an article online in -- it's actually 17 available on Yahoo called, How Navy SEAL Matt 18 Bissonnette won the bin Laden book competition. 19 Have you seen that -- 20 A No. 21 Q -- article? 22 A Huh-uh. 23 Q You mean -- 24 A Is this the one where he says that I stole his 25 name?</p>
<p style="text-align: right;">Page 186</p> <p>1 e-mail chain. 2 Q And why wouldn't you just tell him, I'm writing my 3 own book? 4 A Didn't feel like he needed to know it. 5 Q And that's the only reason you didn't tell him? 6 A Well, what's the -- why do I need to tell him? 7 Q Because you were writing a book of your own. 8 A Of the advice I had been getting from Mr. Podlaski 9 was, Hey, we need to keep this quiet, keep this 10 under wraps. Certainly Dutton didn't want it 11 getting out to other publishers that we were 12 writing another book, so there was no reason for me 13 to tell him. 14 Q Was Mr. Podlaski the only person telling you to 15 keep it under wraps? 16 A From one perspective, yes. And then from Ben's 17 perspective, he obviously didn't want it getting 18 out into the publishing world. 19 Q Because that would diminish the book sales; 20 correct? 21 A I'm not going to guess what that meant from 22 different perspectives. Yeah. 23 Q How about from Elyse Cheney's perspective? What 24 did she tell you about revealing the fact that you 25 were writing a book to Mark Bowden?</p>	<p style="text-align: right;">Page 188</p> <p>1 Q Yeah. 2 A Oh, okay. Then maybe I have read it. 3 Q I was just going to ask you, you mean to tell me 4 you don't Google your name? 5 A I try not to. First advice I got. 6 Q Well, the second best was never to admit to it. 7 And do you recall that in that article, if you 8 do recall reading it, that Mark Bowden had reached 9 out to you and -- I'm sorry, take it back; that 10 Mark Bowden said that you reached out to him to 11 find out when his book was being published. Do you 12 recall that? 13 A No. 14 Q Do you recall ever reaching out to Mark Bowden and 15 asking him when he planned to have his book 16 published? 17 A I know we spoke several times and we've -- we 18 talked about when his book was coming out or -- I 19 don't know. I remember speaking several times. 20 The topics of those discussions, I don't remember 21 every point of it. 22 Q And just so I'm clear, the pseudonym Mark Owen has 23 no relation to Mark Bowden? 24 A Absolutely zero. I was used to signing M. Mark, 25 it's short. Owen, it's short. It had nothing to</p>

<p style="text-align: right;">Page 189</p> <p>1 do with Mark Bowden. If he appreciates that, then</p> <p>2 great. He can appreciate that. But zero to do</p> <p>3 with him. When I chose that pseudonym, I had never</p> <p>4 met or -- I probably read Black Hawk Down but never</p> <p>5 connected the two names.</p> <p>6 Q Document Number 17, there's an e-mail chain that</p> <p>7 you are the recipient of on June 6, 2012. But it</p> <p>8 begins on that day towards the beginning at</p> <p>9 9:53 a.m. And it's between Elyse Cheney and Ben</p> <p>10 Sevier. The subject is, Hey, H-E-Y. And it states</p> <p>11 in the second sentence, I want to update you on</p> <p>12 some major news regarding Owen project that might</p> <p>13 factor into pub date decision. Do you see that?</p> <p>14 A Yeah. At the bottom; correct?</p> <p>15 Q Yeah, at the bottom.</p> <p>16 A Yep.</p> <p>17 Q And eventually you receive that e-mail. Do you</p> <p>18 know what the big news was?</p> <p>19 A I don't know.</p> <p>20 Q Well, the -- your response -- I'm sorry. I take it</p> <p>21 back. Elyse Cheney's response to you eventually</p> <p>22 later that day was, All good. But in between, the</p> <p>23 exchange between Ben Sevier and Elyse Cheney is</p> <p>24 some excitement about information about news. Do</p> <p>25 you know what that was?</p>	<p style="text-align: right;">Page 191</p> <p>1 gaming world, correct --</p> <p>2 A I don't know how --</p> <p>3 Q -- to your knowledge?</p> <p>4 A I knew nothing about him until I was introduced. I</p> <p>5 know he's an agent, and he represents video game</p> <p>6 folks.</p> <p>7 Q And before then, had you been involved in any video</p> <p>8 game pursuits?</p> <p>9 A No, not -- when I was brand new at SEAL Team 5, the</p> <p>10 SEAL community, SOCOM community sponsored a video</p> <p>11 game called SOCOM Navy SEALs. And my platoon and</p> <p>12 my team was ordered to go out into our training</p> <p>13 area and let these video game folks come in and</p> <p>14 record grenades going off and machine gunfire and</p> <p>15 that type of stuff, but that was years ago when I</p> <p>16 was brand new and no business --</p> <p>17 Q There was no business attached to that?</p> <p>18 A No business ties, no.</p> <p>19 Q Now, was this your introduction in June of 2012 to</p> <p>20 Electronic Arts?</p> <p>21 A This was -- this was an -- this e-mail seems to be</p> <p>22 an introduction of me meeting Ophir.</p> <p>23 Q And did you have discussions with Ophir?</p> <p>24 A I met him maybe once or twice.</p> <p>25 Q And did you do any business with him?</p>
<p style="text-align: right;">Page 190</p> <p>1 A I don't recall. Apparently I was only hit at the</p> <p>2 end.</p> <p>3 Q Yeah, correct.</p> <p>4 A So I don't recall.</p> <p>5 Q Have you ever met an individual whose name is Ophir</p> <p>6 Lupu?</p> <p>7 MR. FURMAN: And I'll spell that. That's</p> <p>8 going to be a hard one. That's O-P-H-I-R, L-U-P-U.</p> <p>9 A You've got to give me some context on this. Not</p> <p>10 that it rings a bell.</p> <p>11 Q All right. So I'll give you some context.</p> <p>12 (Exhibit 18 was marked for identification.)</p> <p>13 Q All right. Now, Document Number 18, you're being</p> <p>14 introduced to Mr. Lupu through another agent at</p> <p>15 United Talent called Adam Biren, B-I-R-E-N. Do you</p> <p>16 see that?</p> <p>17 A Yes.</p> <p>18 Q Who's Adam Biren, first?</p> <p>19 A Adam Biren --</p> <p>20 Q Biren.</p> <p>21 A -- is an agent at UTA or was an agent at UTA.</p> <p>22 Ophir -- and I don't know how to pronounce his last</p> <p>23 name either -- I believe he was their video game</p> <p>24 agent, agent that just does video game stuff.</p> <p>25 Q Yeah. And he's actually a very big player in the</p>	<p style="text-align: right;">Page 192</p> <p>1 A No.</p> <p>2 Q How did you eventually link up with Electronic</p> <p>3 Arts, EA, to do work with them?</p> <p>4 A The -- I had a former Delta Force buddy who has a</p> <p>5 TV show, and his production company had done some</p> <p>6 work with EA. And as I was getting out, I met the</p> <p>7 production company, and that's how I got tied in</p> <p>8 with EA.</p> <p>9 Q And the production company is Silent R?</p> <p>10 A Yes.</p> <p>11 Q And what was your position with Silent R?</p> <p>12 A Consultant.</p> <p>13 Q And who was your buddy that was at Silent R?</p> <p>14 A Eric -- well, Eric Sherertz is the owner -- the</p> <p>15 main guy at Silent R. Larry Vickers is the former</p> <p>16 Delta -- he's the personality on the TAC-TV show.</p> <p>17 Q And in connection with Electronic Arts, you did</p> <p>18 some voiceovers for some commercials that related</p> <p>19 to a video game?</p> <p>20 A Through Silent R -- through silent R had the</p> <p>21 contract with EA to do the videos.</p> <p>22 Q Okay. And that was the Medal of Honor game?</p> <p>23 A Yes, sir.</p> <p>24 Q And in that game, what operations were discussed in</p> <p>25 the voiceovers?</p>

<p style="text-align: right;">Page 193</p> <p>1 A In the game?</p> <p>2 Q Yeah.</p> <p>3 A None, no specific operations. They wanted me to.</p> <p>4 Q And what was your role?</p> <p>5 A Just as a consultant to -- and an operator in the</p> <p>6 video.</p> <p>7 Q And did it involve military tactics?</p> <p>8 A It involved us simulating scenarios in the game.</p> <p>9 Q And the game involved military maneuvers of some</p> <p>10 sort?</p> <p>11 A It's a video game.</p> <p>12 Q Well, it's a video game involving military -- in</p> <p>13 other words, it's not Donald Duck in there. It's</p> <p>14 military operators in the video game?</p> <p>15 A It's a military figure in a game that's driven by</p> <p>16 the person on the console.</p> <p>17 Q Okay. Did you discuss that with Kevin Podlaski?</p> <p>18 A Not that I remember.</p> <p>19 Q Did you ask for permission to do that from the</p> <p>20 Navy, the Department of Defense, the CIA?</p> <p>21 A No.</p> <p>22 Q At that point in time when you were performing that</p> <p>23 work, were you discharged from the Navy?</p> <p>24 A It was after I was out of the Navy when I was doing</p> <p>25 all that --</p>	<p style="text-align: right;">Page 195</p> <p>1 me. Do you see that?</p> <p>2 A Yeah.</p> <p>3 Q What is that referring to?</p> <p>4 A It refers to my comment earlier that he had spoken</p> <p>5 to higher-ups, right, and gotten his information</p> <p>6 from them. But from a shooter perspective,</p> <p>7 apparently he hadn't talked to anybody else at my</p> <p>8 level who was actually a shooter on the raid.</p> <p>9 Q Why was it important for you to tell Elyse Cheney</p> <p>10 and Ben Sevier this information?</p> <p>11 A Give context of the book that Bowden was writing.</p> <p>12 Q Why did they need to know about Bowden's book?</p> <p>13 A I don't know. Just thought it might be</p> <p>14 interesting.</p> <p>15 Q And that's the only reason you sent it to them</p> <p>16 because you thought it would be interesting?</p> <p>17 A Yeah.</p> <p>18 Q Did it relate to your book at all?</p> <p>19 A Sure. I would have -- well, I'm guessing here.</p> <p>20 Right. I'm inferring that, yeah, had he had</p> <p>21 another operator on the raid, that his book might</p> <p>22 have been a little more in line with what we were</p> <p>23 trying to write. But that's just me inferring.</p> <p>24 Q Well, you're the writer so no one needs to infer.</p> <p>25 I want to know why you were telling Elyse Cheney</p>
<p style="text-align: right;">Page 194</p> <p>1 Q Did you sign --</p> <p>2 A -- if my timelines are correct.</p> <p>3 Q Did you sign contracts with -- through Silent R</p> <p>4 with the video game producers before or after you</p> <p>5 were discharged from the Navy?</p> <p>6 A I don't remember.</p> <p>7 (Exhibit 19 was marked for identification.)</p> <p>8 Q Exhibit 19 is an e-mail from you on June 8 of 2012</p> <p>9 to Ben Sevier and Elyse Cheney. Do you see that?</p> <p>10 A Yes.</p> <p>11 Q And in there -- and by the way, there's no one else</p> <p>12 e-mail -- you didn't include Mr. Podlaski in this</p> <p>13 e-mail; correct?</p> <p>14 A Not according to the e-mail.</p> <p>15 Q And did you include Mr. Podlaski in any discussions</p> <p>16 that related to Mark Bowden's book at all to the</p> <p>17 best of your knowledge?</p> <p>18 A I don't recall.</p> <p>19 Q Did you discuss Mark Bowden's book with</p> <p>20 Mr. Podlaski at any point in time?</p> <p>21 A I don't recall.</p> <p>22 Q And in the e-mail, you wrote, quote, Just confirmed</p> <p>23 Bowden has none of the shooters from the raid, only</p> <p>24 the higher-ups. Just talked to my buddy who</p> <p>25 introduced Bowden to me, and he said it was only</p>	<p style="text-align: right;">Page 196</p> <p>1 and Ben Sevier about the sources for Mark Bowden's</p> <p>2 book.</p> <p>3 A I had e-mailed multiple e-mails, as we saw earlier,</p> <p>4 anything revolving around that. I felt that that</p> <p>5 was important for the team to know so I forwarded</p> <p>6 it along.</p> <p>7 Q And was it driven by the fact that up until that</p> <p>8 point in time, for all you knew, you were the only</p> <p>9 shooter, using the term that you've used here, that</p> <p>10 was writing a book about Operation Neptune Spear?</p> <p>11 A Was it driven by?</p> <p>12 Q Yeah.</p> <p>13 A I'm sorry.</p> <p>14 Q Let me rephrase it. You wrote that Bowden has none</p> <p>15 of the shooters from the raid. And then you wanted</p> <p>16 to say that your buddy introduced Bowden to me and</p> <p>17 he said it was only me.</p> <p>18 A Right.</p> <p>19 Q So from what you understood, Bowden had none of the</p> <p>20 shooters. I'm using the term "shooters" the way</p> <p>21 that you --</p> <p>22 A Operators, shooters, sure.</p> <p>23 Q Yeah, loosely. Was that a concern of yours, that</p> <p>24 you would be the first author that would be</p> <p>25 essentially an operator/shooter that would write</p>

<p style="text-align: right;">Page 197</p> <p>1 about Operation Neptune Spear? Was that something</p> <p>2 that was driving you?</p> <p>3 A Vaguely, a little bit at this point, I think, sure.</p> <p>4 We wanted to be the -- I was the only one that I</p> <p>5 knew of that had been on the raid who was doing</p> <p>6 this. Right. Bowden had other people. He had the</p> <p>7 higher-ups, but he didn't have a shooter. So I</p> <p>8 thought that was information that I should share</p> <p>9 with the team.</p> <p>10 Q And in carving out space, you know, for publicity's</p> <p>11 sake and for marketing a book, the fact that you</p> <p>12 were the first of the operators/shooters to write a</p> <p>13 book about Operation Neptune Spear, that had</p> <p>14 significance, right?</p> <p>15 A I'm not a marketing guy. I'm not a PR guy.</p> <p>16 Q I'm asking you. I'm not asking you if you're a</p> <p>17 marketing guy. Did you think it had significance?</p> <p>18 A I'm guessing it would.</p> <p>19 (Exhibit 20 was marked for identification.)</p> <p>20 Q Now, earlier I had asked you what your connection</p> <p>21 with Silent R and the video game, and it was</p> <p>22 through Eric Sherertz; right?</p> <p>23 A Yes.</p> <p>24 Q And is Greg Goodrich connected with Silent R?</p> <p>25 A No. Greg Goodrich was the video game producer. So</p>	<p style="text-align: right;">Page 199</p> <p>1 he was killed?</p> <p>2 A Yes.</p> <p>3 Q And did you help produce a version of the compound?</p> <p>4 A No.</p> <p>5 Q Did you see a version of the compound?</p> <p>6 A No.</p> <p>7 Q Did you discuss with Kevin Podlaski the fact that</p> <p>8 you were having a discussion with video game</p> <p>9 producers about the compound in Abbottabad?</p> <p>10 A No, because I didn't agree to do any of it. What</p> <p>11 we agreed to do at the end was just help with their</p> <p>12 marketing videos.</p> <p>13 Q And the discussion was between you and Eric</p> <p>14 Sherertz?</p> <p>15 A What discussion?</p> <p>16 Q About the compound.</p> <p>17 A EA wanted it. Right. So I don't know that Greg</p> <p>18 Goodrich was pushing it. I see this Craig Owens</p> <p>19 name. He -- I remember him being a huge driving</p> <p>20 force to try and get us to do some sort of</p> <p>21 compound-type piece. And we repeatedly said no. I</p> <p>22 don't remember Eric Sherertz pressuring me. You</p> <p>23 know, he wanted to. He was playing the middleman.</p> <p>24 He had the better relationship with Greg Goodrich,</p> <p>25 but --</p>
<p style="text-align: right;">Page 198</p> <p>1 he was, like, the main guy at EA that handled</p> <p>2 everything revolved around that video game.</p> <p>3 Q Now, what I handed you as Exhibit No. 20 is a</p> <p>4 multiple-page e-mail chain. I want you to go back</p> <p>5 to the beginning of it because it's dated -- it</p> <p>6 starts with the date of June the 7th and carries</p> <p>7 through to June 10.</p> <p>8 A Okay.</p> <p>9 Q And the first e-mail is from Eric Sherertz, who was</p> <p>10 writing to Craig. And it states there, Talked to</p> <p>11 Biss about that compound download. What is he</p> <p>12 referring to there?</p> <p>13 A They were trying to get me at the beginning to do</p> <p>14 a -- they wanted to see if I'd be interested in</p> <p>15 doing a portion of the video game that had the</p> <p>16 compound in it and you could actually play that</p> <p>17 raid.</p> <p>18 Q And it would be playing the raid of -- that was</p> <p>19 Operation Neptune?</p> <p>20 A It would have -- not the raid. It would involve</p> <p>21 the compound.</p> <p>22 Q And it would be the compound at Abbottabad in</p> <p>23 Pakistan; correct?</p> <p>24 A Yes.</p> <p>25 Q And that was where Mr. Osama bin Laden was before</p>	<p style="text-align: right;">Page 200</p> <p>1 Q And just so I'm clear, Greg Goodrich is -- who's he</p> <p>2 connected to?</p> <p>3 A EA.</p> <p>4 Q EA?</p> <p>5 A Yeah.</p> <p>6 Q And Craig Owens?</p> <p>7 A EA.</p> <p>8 Q Owens, EA.</p> <p>9 Now, in the second page from the back of this</p> <p>10 document, Exhibit Number 20, there is an e-mail</p> <p>11 that's dated January 7 at 8:14 p.m. from you. And</p> <p>12 it's to Craig Owens, Eric Sherertz, Greg Goodrich,</p> <p>13 and then now includes Elyse Cheney.</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q And the subject is -- it looks like Medal of Honor</p> <p>17 W -- and I don't know what the W stands for.</p> <p>18 A Warfighter.</p> <p>19 Q I'm not a game person so I don't really --</p> <p>20 A Neither am I.</p> <p>21 Q So it's MOHW DLC. What does DLC stand for?</p> <p>22 A I don't know.</p> <p>23 Q So the discussion is about a video game called</p> <p>24 Medal of Honor: Warfighter. And your salutation</p> <p>25 is, Hey, guys. I've included Elyse in on the</p>

<p style="text-align: right;">Page 201</p> <p>1 e-mail as well. You also wrote -- there was talk 2 of some meeting, but you also wrote, quote, Also on 3 a side note, I've kind of been thinking of this 4 whole thing as two different products that are tied 5 very close together. One would be the Silent R 6 Productions side with the promo videos, et cetera. 7 The second side is the Mark Owen book/Medal of 8 Honor promotion piece. Both are big marketing 9 pieces, but I was seeing these two as separate. Do 10 you see that? 11 A Yep. 12 Q So I know you've referenced before you're not a 13 marketer, but what were your concerns here about 14 marketing? 15 A Elyse brought up this idea. She said, Look, if 16 you're -- we're doing this book. We're well down 17 the way of doing the book. Now you've got this 18 other opportunity to do a video game piece. Okay. 19 We've negotiated out of the bin Laden stuff in the 20 video, but, hey, you're still going to be attached 21 to a very large video game that's going to be 22 released, and they're -- you know, they're going to 23 be marketing it. And Elyse brought it up, Hey, 24 maybe there's a way to kind of co-promote the two. 25 Q Was the idea to cut out the bin Laden piece of it</p>	<p style="text-align: right;">Page 203</p> <p>1 Q Now, I've referenced earlier -- I asked you whether 2 you were trying to carve out Mark Owen versus a 3 video game part of your marketing strategy. Is 4 that consistent with what you described earlier? 5 A I think this is Elyse getting involved, trying to 6 connect a whole bunch of dots and play her little 7 role as the -- right. We've -- I think we've 8 already talked about her coming together with me 9 and us creating this stuff. And she was much 10 smarter at all this than I was, and so I think I 11 see her trying to carve out where it's -- hey, 12 look, we want some marketing on this. We want 13 this. You know, that's her taking the lead on 14 that. 15 Q Okay. Now, the next page over leading to the 16 front, I'm referring you to a June 9, 2012, e-mail 17 that you wrote. And it's a discussion of what you 18 termed, quote, the name game. Do you see that? 19 A Okay. 20 Q And in this e-mail -- and I'm not sure if I know 21 who you're writing to. Yeah, I can see it. You're 22 writing to -- on that day to Goodrich; to Owens, 23 Craig Owens; Eric Sherertz. And I don't see Elyse 24 Cheney on this e-mail. But in any event, your 25 discussion is dealing with this name issue --</p>
<p style="text-align: right;">Page 202</p> <p>1 because you wanted the bin Laden side of things to 2 be a Mark Owen piece as opposed to a Silent R 3 piece? 4 A I never thought of it that way. I just simply 5 didn't think it was appropriate to play that level 6 in a video game. 7 Q And did you run any of these discussions -- again, 8 I've asked you this before -- through Kevin 9 Podlaski? 10 A Not that I remember. 11 Q Now, on the next -- 12 A Richard Heller was my -- was the main legal counsel 13 on a lot of the video game stuff. 14 Q On June 8 of 2012, Elyse Cheney is writing to Craig 15 Owens, to you, and copying Sherertz and Goodrich. 16 Again, the subject is, Medal of Honor: Warfighter. 17 And in there, Elyse is saying -- and I'll just 18 quote a segment of the e-mail -- Even though we 19 know that your business is a million times more 20 lucrative than publishing, the publisher still has 21 to put down a lot of money in this book, and they 22 want to be the ones, along with Mark and I, to 23 control how Mark's persona is framed out and laid 24 out for the media. Do you see that? 25 A Yes.</p>	<p style="text-align: right;">Page 204</p> <p>1 A Okay. 2 Q -- that Elyse Cheney had raised the day before. 3 And you wrote, In the end, the only people I really 4 trust with my real name is the people in this 5 e-mail. Did you see that? 6 A Yeah. 7 Q So you didn't include Elyse on that. Is there a 8 plan reason why you didn't or -- 9 A I think it was -- obviously I trusted Elyse at this 10 point with my real name. This was an e-mail more 11 focused on the EA side of the house. Right. Eric 12 Sherertz was the main guy dealing with EA. Greg 13 Goodrich and Owens, both definitely EA. I'm just 14 getting to know them. And again, back to my safety 15 and security piece, I wanted to make sure these 16 guys knew that I was serious about the fake name. 17 Q And you also at the end -- I think everyone is on 18 board with the September 11 publishing date so once 19 that is in stone, hopefully this next week, we can 20 link up on a conference call and start necking down 21 all the details. Do you see that? 22 A Yes. 23 Q What details are you referring to? 24 A I'm guessing that's reflecting back to some of the 25 ideas that Elyse had said, Hey, the co-promoting</p>

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1 launch of all of this.

2 Q And was it the idea that you would release the book

3 and then the video game would be released on the

4 same day, on September 11?

5 A I don't believe so. I don't remember their exact

6 launch date. I just think Elyse was trying to get

7 some sort of promotion out of them to help us, and

8 then we would somehow promote them when they

9 launched their video game. I don't remember the

10 day their game was launched.

11 Q Did you have any concerns that focusing on

12 September 11 as a marketing date, you know, would

13 have an adverse effect?

14 A No, because the other option was to get it thrown

15 in the pot with all the crazy political stuff

16 that's going on in election year. We just saw it

17 again; right? The last thing I wanted to do was

18 touch that. And again, based off the book and the

19 topic that I was writing about, I couldn't think of

20 a better time to release it than September 11.

21 Q But, you know, Labor Day, end of August.

22 A I have no idea when Labor Day is.

23 Q September 11 has a -- it's a day obviously

24 connected to tragedy in New York and a terrorist

25 attack. Was the driving force at least in 2012 to

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1 use that date as a way to maximize profit?

2 A No. I don't think I ever said, Okay, let's do it

3 on the 11th to maximize profit. I think -- again,

4 Ben was driving the overall big picture timeline

5 and when we -- whatever it was, six months later

6 that we had to have something out in that window

7 where I had the ability to say, Hey, look, guys,

8 I'd like to do it on this date. That was my two

9 cents to try and do it on September 11, and that

10 had absolutely nothing to do with capitalizing

11 monetarily on that day. That had to do with that

12 story resting on that day.

13 Q This will be Number 21.

14 (Exhibit 21 was marked for identification.)

15 Q Now, the next day after the exchange of e-mails

16 that we discussed on Exhibit 20, the next day on

17 June 11, you were in an e-mail exchange with Ben

18 Sevier, Kevin Maurer, and Elyse Cheney about the

19 schedule and to publish on 9/11. Do you see that?

20 A Okay. Yes.

21 Q And the e-mail chain starts off with an e-mail from

22 Ben Sevier saying on Monday, June 11, Hello all,

23 including you, Mr. Maurer, and Elyse Cheney, that

24 we're, quote, charging ahead on the schedule to

25 publish 9/11 which means the book's editing,

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1 revision, and production will need to happen on the

2 below timeline. Do you see that?

3 A Yes.

4 Q And was that -- and what follows is a -- on the

5 next page after that is a fairly detailed schedule

6 for the book and that the bound copies of the book

7 were due on August 3 of 2012. Do you see that?

8 A Yep.

9 Q Was that a schedule that you had discussed with

10 Mr. Sevier in advance?

11 A A loose schedule. I don't remember specifics.

12 This is obviously a new one with much more

13 specifics as we were getting closer.

14 Q And during this time, were you actively involved

15 with Mr. Maurer to write the various pieces of the

16 book?

17 A I believe so.

18 Q And did you discuss this schedule at any point in

19 time with Mr. Podlaski?

20 A I don't remember. I'd have to go through e-mails.

21 (Exhibit 22 was marked for identification.)

22 Q Mr. Bissonnette, I've shown you Exhibit No. 22.

23 This is an e-mail the very next day on June 12

24 where you are receiving a memorandum of

25 understanding about your consulting with Medal of

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1 Honor: Warfighter. And the e-mail from

2 Mr. Owens -- and he copies a few people, yourself

3 at two different e-mails, Greg Goodrich, and Joe

4 Cademartori. It's C-A-D-E-M-A-R-T-O-R-I. Do you

5 see that?

6 A Yes.

7 Q Who is Joe Cademartori?

8 A No idea. Guessing their legal counsel.

9 Q Okay.

10 A Guessing. I don't know.

11 Q And Mr. Goodrich we know and, of course, Mr. Owens

12 we know. And in the e-mail, Mr. Owens is saying,

13 Mark, thanks for speaking with Greg and I on this

14 exciting opportunity. As discussed, attached is

15 the letter of intent on the consulting agreement

16 for Medal of Honor: Warfighter. Please let me

17 know if you have any questions. And did you

18 eventually sign this agreement?

19 A I don't believe we did.

20 Q Did you -- at the time that you were at least in

21 discussions with this, you were still not retired

22 from the Navy officially; correct?

23 A June 12. No.

24 Q Did you discuss this with Mr. Podlaski?

25 A No.

<p style="text-align: right;">Page 209</p> <p>1 Q Was there a reason why you didn't?</p> <p>2 A I was using Richard Heller as my legal counsel for</p> <p>3 the video game stuff.</p> <p>4 (Exhibit 23 was marked for identification.)</p> <p>5 Q So number 23, this is an e-mail from Elyse Cheney</p> <p>6 to you and along with it is an exchange between</p> <p>7 Elyse Cheney and Alex Jacobs. Do you know who Alex</p> <p>8 Jacobs is?</p> <p>9 A He worked for Elyse.</p> <p>10 Q And within this e-mail, there's an announcement</p> <p>11 that in October, Mr. Bowden was going to publish</p> <p>12 his book called The Finish: The Killing of Osama</p> <p>13 Bin Laden. Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Did you have a discussion with Elyse Cheney about</p> <p>16 this information?</p> <p>17 A Not that I recall specifically.</p> <p>18 Q Do you know why she was sending you this</p> <p>19 information?</p> <p>20 A Of interest just like when I shared her -- the</p> <p>21 information from Bowden.</p> <p>22 Q And was it a concern of yours that you were</p> <p>23 interested in having your book released before</p> <p>24 Mr. Bowden's?</p> <p>25 A Of course. You're going to kill me. Can I have</p>	<p style="text-align: right;">Page 211</p> <p>1 Q Was the team being related only to No Easy Day?</p> <p>2 A I don't know how I classified it in my mind when I</p> <p>3 wrote it, but I would assume anybody I was involved</p> <p>4 with on some sort of business level had been</p> <p>5 involved -- anybody that I'd been involved with up</p> <p>6 until this point.</p> <p>7 Q And did you expect Elyse Cheney to then forward</p> <p>8 this e-mail out to other people?</p> <p>9 A If I did, I'm guessing I probably would have said,</p> <p>10 Please forward.</p> <p>11 Q Okay. The reason I'm asking you this question is</p> <p>12 because the salutation is to team.</p> <p>13 A Right.</p> <p>14 Q And it says, Okay, guys.</p> <p>15 A Right.</p> <p>16 Q And you're only writing to one person.</p> <p>17 A Right.</p> <p>18 Q So I want to understand who you meant this audience</p> <p>19 to be.</p> <p>20 A If I would have wrote team and guys, plural, that</p> <p>21 would have been going out to everybody. Why it</p> <p>22 only went to Elyse, I don't know. I don't know if</p> <p>23 the same e-mail was e-mailed singularly to each</p> <p>24 person. I don't know why. I don't know why I</p> <p>25 didn't put them all on the same chain. I don't</p>
<p style="text-align: right;">Page 210</p> <p>1 two minutes?</p> <p>2 Q Sure.</p> <p>3 (A brief recess was taken.)</p> <p>4 (Exhibit 24 was marked for identification.)</p> <p>5 BY MR. FURMAN:</p> <p>6 Q So we're fast-forwarding to August 17 of 2012. And</p> <p>7 this is an e-mail, Mr. Bissonnette, from you to</p> <p>8 Elyse Cheney. And the subject is, Future guidance.</p> <p>9 And the reference is to team. And I'm not sure if</p> <p>10 this e-mail was meant for you to send to Elyse to</p> <p>11 then distribute to other people within her company.</p> <p>12 The reference also in the beginning of the e-mail</p> <p>13 is, Okay, guys. So I'm assuming that this e-mail</p> <p>14 was meant for not just Elyse Cheney; is that</p> <p>15 correct?</p> <p>16 A I would assume so.</p> <p>17 Q Who else was it meant to include?</p> <p>18 A Anybody else who was in on the Mark Owen name game,</p> <p>19 anybody else who -- I don't know. Certainly</p> <p>20 anybody else who knew the name difference, right,</p> <p>21 anybody who was on the team.</p> <p>22 Q Well, the team being that it was Matthew</p> <p>23 Bissonnette writing a book under the pen name Mark</p> <p>24 Owen; correct?</p> <p>25 A What is that --</p>	<p style="text-align: right;">Page 212</p> <p>1 know.</p> <p>2 Q Did you include Kevin Podlaski in this e-mail?</p> <p>3 A According to this e-mail, I only sent it to Elyse.</p> <p>4 Q Would Kevin Podlaski be considered part of this</p> <p>5 team?</p> <p>6 A Sure.</p> <p>7 Q Did you expect Mr. Podlaski to receive this e-mail?</p> <p>8 A I don't know. Obviously if I'm referring to the</p> <p>9 team, I would refer to the whole team, not just</p> <p>10 Elyse. So I'm not sure why that happened.</p> <p>11 Q Well, at any point in time, did you ever tell</p> <p>12 Mr. Podlaski about your pseudonym Warren West?</p> <p>13 A Not that I can think of.</p> <p>14 Q So when you say that you would have expected</p> <p>15 Mr. Podlaski to be part of this team, would it be</p> <p>16 through this e-mail that you would be introducing</p> <p>17 the Warren West concept?</p> <p>18 A No, quite obviously not because I didn't e-mail</p> <p>19 this to him. In the To line, it only goes to</p> <p>20 Elyse.</p> <p>21 Q So is it fair to say that you didn't expect</p> <p>22 Mr. Podlaski to see this?</p> <p>23 A I would have had zero issues had he, you know. Had</p> <p>24 I briefed him on the name Warren West? No, I don't</p> <p>25 think I had at this point.</p>

<p style="text-align: right;">Page 213</p> <p>1 Q Now, in this e-mail, you are saying, I want to --</p> <p>2 quote, I wanted to put out a quick e-mail so that</p> <p>3 everyone was singing off the same sheet of music,</p> <p>4 closed quote. So, you know, we talked about team</p> <p>5 and the concept of teams, but in this sense, you</p> <p>6 are the quarterback here; right?</p> <p>7 A Yep.</p> <p>8 Q And it states that, With the September 11</p> <p>9 publishing date -- I'm assuming it's publishing</p> <p>10 date, FUD -- quickly approaching, I wanted to make</p> <p>11 sure everyone knew what my intentions were in</p> <p>12 regards to any new Mark Owen business</p> <p>13 opportunities. Do you see that?</p> <p>14 A Yep.</p> <p>15 Q So in this e-mail, you're linking September 11 to</p> <p>16 Mark Owen business opportunities. Is that fair to</p> <p>17 say?</p> <p>18 A No. I'm referring to September 11 as the launch</p> <p>19 date of the book and then anything post the launch</p> <p>20 of the book.</p> <p>21 Q In the next sentence, you wrote, I'm expecting a</p> <p>22 fair amount of attention on and after September 11,</p> <p>23 and I want to make sure we reply with a common</p> <p>24 theme. And the -- there's a quote. Mark Owen</p> <p>25 appreciates your interest and as of right now, he</p>	<p style="text-align: right;">Page 215</p> <p>1 this. Do you see that?</p> <p>2 A Right.</p> <p>3 Q So is that what you wanted, is that you wanted the</p> <p>4 perception to be that you were not trying to</p> <p>5 capitalize on the book and the killing of bin</p> <p>6 Laden?</p> <p>7 A It was important to me to never be the primary</p> <p>8 focus of it. I came from an organization that</p> <p>9 worked as a team. I wasn't the only guy on that</p> <p>10 mission. And it was important to me to make sure</p> <p>11 that everybody got that credit. I knew there would</p> <p>12 be a ton of people out there second guessing and</p> <p>13 wanting to point fingers, but I always wanted it to</p> <p>14 go back, reflect credit on the team, not me as</p> <p>15 trying to stand out and be somebody special.</p> <p>16 Q Well, at the same time you said that Mark Owen is</p> <p>17 not running around Hollywood, you also had a</p> <p>18 pseudonym named Warren West who was actually doing</p> <p>19 that, right, running around Hollywood.</p> <p>20 A Right. I was, but I wasn't capitalizing on the</p> <p>21 raid. I had turned down the video game guys to do</p> <p>22 a raid specific thing. I had turned down the movie</p> <p>23 to be involved at that level. I wanted to do the</p> <p>24 book and let that be as it may.</p> <p>25 Q Isn't it fair to say that you wouldn't have gotten</p>
<p style="text-align: right;">Page 214</p> <p>1 is focusing on every opportunity to raise money for</p> <p>2 the charity organizations he discusses in his book.</p> <p>3 We will get back to you if and when Mr. -- if and</p> <p>4 when Mark Owen is interested, closed quote. Do you</p> <p>5 see that?</p> <p>6 A Yes.</p> <p>7 Q Is that what you wanted people to say in the wake</p> <p>8 of the publishing of the book on September 11?</p> <p>9 A I wouldn't say it verbatim that's what I wanted</p> <p>10 because I followed up by saying, you know, I hope</p> <p>11 everybody gets the point. The point I was trying</p> <p>12 to make -- and it goes back to my reasons for using</p> <p>13 the pseudonym and not showing my face -- is, look,</p> <p>14 I didn't want to be the one guy out there saying,</p> <p>15 Hey, look at me. I've done all this. I wanted the</p> <p>16 focus to be on -- certainly in regards to the book,</p> <p>17 the charity aspect, and the sacrifice of all those</p> <p>18 who have served. So I think that my intentions</p> <p>19 there were to keep the focus on that and not me as</p> <p>20 an individual.</p> <p>21 Q And you wrote, The perception -- the words, The</p> <p>22 perception needs to be that Mark Owen is not</p> <p>23 chasing down selling his book to the first people</p> <p>24 that come along and that Mark Owen is not running</p> <p>25 around Hollywood trying to capitalize on any of</p>	<p style="text-align: right;">Page 216</p> <p>1 any introductions through Hollywood if it wasn't</p> <p>2 for the fact that you were involved in the raid?</p> <p>3 A No, I don't think that's a safe assessment.</p> <p>4 Q Why not?</p> <p>5 A Plenty of people go out to Hollywood and make a</p> <p>6 name for themselves no matter where they came from.</p> <p>7 And certainly anybody with just plain SEAL</p> <p>8 credentials -- I don't care if you were on the raid</p> <p>9 or not -- have very successful careers in Hollywood</p> <p>10 based off the SEAL background alone.</p> <p>11 Q It was eventual we'd talk about Mark Hosenball.</p> <p>12 A Whoever that is.</p> <p>13 (Exhibit 25 was marked for identification.)</p> <p>14 Q I'm showing you what's been marked as Exhibit</p> <p>15 No. 25. It's an e-mail chain that is on August 23</p> <p>16 of 2012. Do you remember that day learning that a</p> <p>17 journalist from Reuters had found out that -- and</p> <p>18 I'm presuming it was through Fox News that you were</p> <p>19 writing a book called No Easy Day?</p> <p>20 A Yeah. I remember the name -- I remember the day my</p> <p>21 name was released, yes.</p> <p>22 Q And do you know how it came about that your name</p> <p>23 was released?</p> <p>24 A No.</p> <p>25 Q At that point in time, August 23 of 2012, had you</p>

<p style="text-align: right;">Page 217</p> <p>1 told anyone in the SEAL community that you were 2 writing a book? 3 A I don't remember the exact timeline. I know once 4 everything went public, one of my master chiefs 5 from the command reached out, knew it was me, and 6 said, Hey, did you write a book? And I -- we had a 7 phone call. But nothing -- and I don't remember 8 the dates of that. But it had to have been after 9 my name was out. 10 Q And in this e-mail, Mr. Hosenball, this reporter 11 from Reuters, is contacting Elyse Cheney, your 12 agent, and saying that no one at SOCOM or the Navy 13 SEALs were asked to vet the book or approve it and 14 that the publishing of the book was unauthorized. 15 Do you remember receiving news about this? 16 A Vaguely, yes. 17 Q Now, did you speak to Kevin Podlaski about this? 18 A I don't remember who I spoke to about this. 19 Q At the very end of the e-mail exchange on August 23 20 at 6:00 p.m., after the news is being exchanged 21 about this reporter's interest in the story and 22 also the revealing of your name and there was a 23 flurry of e-mail exchanges between Peter Ragone, a 24 publicist on behalf of Dutton; Christine Ball; 25 Elyse Cheney; and yourself. You wrote to Elyse</p>	<p style="text-align: right;">Page 219</p> <p>1 A Yes. 2 Q There's a term called PNG'ed. Is that of 3 significance in the SEAL community? 4 A If you buy into it. 5 Q Let's assume I buy into it. What does it mean? 6 A It means you're out of the club. 7 Q And the club meaning that you no longer have a 8 friendship of -- what does it mean to -- 9 A No. It doesn't mean anything about friendship. 10 Right. I've got plenty of SEAL friends still 11 serving, still in, some of my best friends. All 12 right. Nothing changes no matter if you're PNG'ed 13 or not. PNG'ed is something that the head shed, 14 right, the HQ loves to use. And if they don't like 15 you, they can PNG you, and you're now out of the 16 club and we don't want you around anymore. 17 Q And what -- 18 A It's a label, I would say. 19 Q It's a label. Okay. And does it exist anywhere? 20 For example, I've read, although I know I wanted to 21 ask you about it, that there's a rock in Virginia 22 Beach that has the names of certain SEALs who are 23 PNG'ed; is that true? 24 A I have no idea. 25 Q Have you ever seen it?</p>
<p style="text-align: right;">Page 218</p> <p>1 Cheney, Maybe hit up Kevin and Nate. Are you 2 referring to Kevin Vance and Nate Brown? 3 A Yeah, but I don't know why. 4 Q Well, I think the reason for that -- and I'll ask 5 you if this prompts your memory -- is Elyse wrote 6 at 2:58 p.m., I have a SEAL who's ready to be 7 quoted about this. He's F'ing furious. I'm going 8 to call you guys, and we'll conference him in. Do 9 you know who she's referring to? 10 A No. Maybe Kevin and Nate. I don't know how many 11 other SEALs Elyse would know. 12 Q Are Kevin and Nate supporters of yours in the sense 13 that they're not upset that you wrote the book? 14 A Yeah. They're friends. 15 Q And -- 16 A Or supporters. I wouldn't call -- I can't remember 17 the last time I talked to them. They're -- 18 Q And I'm using the term, you know, loosely so 19 that -- and if you have trouble with it, let me 20 know. Is it fair to say that within the SEAL 21 community, there are people who are your supporters 22 in the sense that they are not angry that you wrote 23 the book No Easy Day, and then there's a set of 24 people in the SEAL community who are angry and 25 non-supporters?</p>	<p style="text-align: right;">Page 220</p> <p>1 A No. There wasn't one there when I was there and 2 the friends I've asked said they've never seen it 3 either. 4 Q Have you heard about that, though, that there's a 5 rock? 6 A I've read about it online, but I don't believe 7 everything I see -- read online either. 8 Q No, I agree with that. So that's why I'm asking 9 you personally. Are you aware that it exists? 10 A I have friends still at the command who have never 11 seen this rock or PNG, whatever -- they've never 12 seen anything like it. 13 Q And so you have no firsthand knowledge about the 14 existence of such a thing? 15 A No. 16 Q A captain's mast, do you know what that is? 17 A Yes. 18 Q Can you describe what a captain's mast is? 19 A It's -- I believe it's a form of nonjudicial 20 punishment where instead of going outside the 21 command, your captain is allowed to place 22 punishment on top of you, punish you for certain 23 things. 24 Q Were you the subject of captain's mast? 25 A Never.</p>

<p style="text-align: right;">Page 221</p> <p>1 Q As a result of the release of No Easy Day, was 2 anyone subject to a captain's mast that you're 3 aware? 4 A No. 5 Q As a result of other activities that you were 6 involved in while you were a Navy SEAL, the Element 7 Group, various business ventures, electronic games, 8 was anyone subject to a captain's mast that you're 9 aware? 10 A While I was a SEAL, no. 11 Q After you were a SEAL. 12 A Yes. 13 Q Who were they? 14 A The other SEALs that helped with the video games. 15 Q And what are their names? 16 A I'm not going to -- 17 Q That's okay. 18 A I don't want to list -- these guys are still active 19 duty. A lot are. Some aren't. So I'd rather not 20 list them. 21 Q The reason -- again, I would just make a record 22 that we want to leave a blank in there. Just -- 23 they may or may not be witnesses that we would want 24 to seek in this case. So I respect your response, 25 but I just wanted to leave it blank in case we need</p>	<p style="text-align: right;">Page 223</p> <p>1 charities, we can simply slide them into the mix. 2 No issues, no drama other than the NSF being 3 completely petty and judgmental without even 4 reading the book. Hope you guys have a great 5 weekend. How did you first find out about the Navy 6 SEAL Foundation's decision? 7 A Somewhere in the media, I'm guessing. I don't 8 remember. Nobody called me. Nobody e-mailed me. 9 Q Well, your links to the media would have been -- 10 I'm presuming would have been Elyse Cheney and her 11 team; correct? They're your agents. 12 A I'm sure there were -- I don't know if there were 13 articles coming out at this point by the 25th or 14 not. I'm guessing if the SEAL Foundation's already 15 said it and made some sort of statement, then 16 that's relatively public. It's not like they were 17 calling me to let me know that personally. So I'm 18 guessing that was relatively open source for 19 anybody. 20 Q But as you sit here today, do you know the source 21 of the information that you were giving to 22 Christine Ball, Ben Sevier, Elyse Cheney, and Kevin 23 Maurer about the Navy SEAL Foundation's decision? 24 A As I'm sitting here today, do I know the source of 25 where I heard that?</p>
<p style="text-align: right;">Page 222</p> <p>1 to chase that down. 2 Now, on the -- I want to refer back -- on 3 August 17 in your e-mail, you wrote that you wanted 4 the team, as it were, to say that you appreciate -- 5 Mark Owen appreciates your interest in the book but 6 is now focusing on raising money for charity 7 organizations. That's in anticipation of 8 August 11, the publishing date of No Easy Day. 9 A September 11. 10 Q I'm sorry, September 11. Do you recall when you 11 received word from the Navy SEAL Foundation that 12 they were not interested in receiving any proceeds 13 related to the book? 14 A No. 15 (Exhibit 26 was marked for identification.) 16 Q Now, this is August 25 of 2012. This is Document 17 Number 26. An e-mail from you to Christine Ball, 18 Ben Sevier, Elyse Cheney, and Kevin Maurer. 19 Mr. Podlaski is not included in this e-mail. You 20 wrote that you had just gotten word that SEAL 21 Foundation, S-E-A-L, Foundation, is already 22 refusing to accept proceeds related to the book. 23 You wrote, I don't think we need to make that 24 public, but I've already reached out to another 25 foundation that if given the chance to list the</p>	<p style="text-align: right;">Page 224</p> <p>1 Q Yeah. How did you find out? 2 A I have no clue. Probably media. 3 Q And was media contacting you directly or was it 4 just -- 5 A No, just Google headline news on Google Alerts, 6 whatever you want. 7 Q Now, we went through the August 30 letter. It 8 might seem like days ago, but we did that this 9 morning. That was the Jeh Johnson letter. I'm 10 going to show you -- we'll have this marked as the 11 next exhibit. 12 (Exhibit 27 was marked for identification.) 13 Q On the Sunday after Jeh Johnson's letter -- this is 14 September 2 -- you wrote an e-mail to Robert 15 Lusk. And the people that you included were 16 Christine Ball, Ben Sevier, Peter Ragone, Alex 17 Gigante, Elyse Cheney, Mark Fabiani, and Kevin 18 Maurer. You didn't include Kevin Podlaski; is that 19 correct? 20 A Not on this e-mail. 21 Q And the subject is, No Easy Day. Now, the e-mail 22 chain begins with an e-mail from a military writer 23 called James Dao, D-A-O. Do you know who James Dao 24 is? 25 A No.</p>

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1 Q He writes for The New York Times. Have you ever
2 spoken to him?
3 A No.
4 Q He wrote to Mr. Luskin about an E-book that was a
5 response from certain members of the SEAL community
6 about your book No Easy Day. Did you ever read
7 that book, by the way, the E-book?
8 A No.
9 Q And it was essentially -- were you told what the
10 book was about, the E-book?
11 A The title said enough.
12 Q Well, did anyone ever go over it with you and tell
13 you who wrote it?
14 A Oh, I know who wrote it.
15 Q Who wrote it?
16 A Brandon Webb.
17 Q And do you know why Brandon Webb wrote the book?
18 A Probably to sell a ton of copies.
19 Q And it's fair to say he's not a supporter of yours?
20 A No.
21 Q And Mr. Luskin responded to Mr. Dao. Did
22 Mr. Luskin call you before he responded to Mr. Dao?
23 A I don't remember.
24 Q Would you have authorized Mr. Luskin to respond to
25 a reporter about your book without Mr. Luskin

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1 speaking to you?
2 A I don't know. At this moment in time, I'm sure
3 there was tons of press coming in with all sorts of
4 stuff being hit in different directions. So was
5 every bit of communication coming through me before
6 going out? I doubt it.
7 Q Well, my question to you is, did you authorize
8 Mr. Luskin to speak on your behalf about running it
9 by you first?
10 A I don't know that I had that conversation with him
11 that clearly spelled that out.
12 Q On that day, Mr. Luskin responds to the reporter
13 and then he forwards the -- his response to you and
14 others, including Elyse Cheney, Christine Ball, Ben
15 Sevier, Mr. Ragone, Mr. Gigante, Mr. Fabiani,
16 Mr. Maurer. But he doesn't include Mr. Podlaski.
17 Do you see that?
18 A Yes.
19 Q And you eventually responded; correct?
20 A Yes.
21 Q And in that response, you wrote, When I decided to
22 get out of the Navy and told my boss in December,
23 they did send me home from the trip and pretty much
24 treated me like S-H-I-T. What did you mean by
25 that? In what manner did they treat you?

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1 A We were -- we were on a jump trip in Arizona, as I
2 mentioned earlier. I pulled my head shed aside
3 towards the end of the trip. I think we had two
4 days left. And I explained to them my intentions
5 of getting out of the Navy. The next day, they
6 said, Okay. Get a ticket. You're flying home.
7 Q And you refer to it as being treated poorly.
8 A Sure.
9 Q I want to use your language. Being sent home is
10 being treated poorly?
11 A Sure. I'm on a training trip with my team, my
12 squadron, my troop, my whole group of guys. They
13 asked -- as soon as I told the head shed, they
14 asked me to catch a flight the next day. We had
15 two more days of training to go. They didn't allow
16 me time to sit down and even tell my team why I was
17 leaving. They just sent me home. I don't think
18 that's the proper way you treat anybody who's done
19 14 years of service.
20 Q And other than that, other than sending you home,
21 was there any other treatment that you felt was
22 where you were treated poorly?
23 A No. Sorry. Verbal.
24 Q Now, in the second paragraph of the e-mail, it
25 states, I spoke with multiple friends at work

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1 before I started this book project, and every one
2 of them knew I was doing it for the right reasons
3 and knew I would also do it the right way,
4 parentheses, not taking all the credit, closed
5 parentheses. You had earlier testified that you
6 didn't tell anyone about the writing of the book,
7 but your e-mail is inconsistent with your sworn
8 testimony.
9 A Yeah. I don't think I really ran around and talked
10 to a whole bunch of people. I had friends there
11 that I discussed loosely -- Hey, you know, what do
12 you think of this? What do you think of that?
13 What do you think of the idea of writing a book
14 about this? You know, trying to get their
15 general -- but did I ever come to them and say,
16 Hey, guys, I'm doing this, this, this, step one,
17 two, three, no, I didn't do that.
18 Q So if I understand what you just told me, you told
19 certain friends loosely that you're thinking about
20 writing a book?
21 A I probably -- I don't know how I exactly phrased
22 it, but it wasn't, Hey, guys, I'm writing a book.
23 It's, Hey, if I was going -- or if somebody were
24 going to write one, don't you think it should be
25 done in the right way? Don't you think that --

<p style="text-align: right;">Page 229</p> <p>1 those type of -- that type of way.</p> <p>2 Q Well, who were those friends?</p> <p>3 A Guys that I was on the squadron with.</p> <p>4 Q What are their names? And I think those are the</p> <p>5 names I do want.</p> <p>6 A I don't remember specifically who exactly I spoke</p> <p>7 to.</p> <p>8 Q And the reason I'm asking you these questions is</p> <p>9 because earlier when you testified, you testified</p> <p>10 that you only told your wife and the first person</p> <p>11 you spoke to about writing the book was Elyse</p> <p>12 Cheney in December.</p> <p>13 A Right.</p> <p>14 Q But in your e-mail to your lawyer, Mr. Luskin,</p> <p>15 you're telling him that you spoke with multiple</p> <p>16 friends at work before I started this book project,</p> <p>17 and every one of them knew I was doing it for the</p> <p>18 right reasons. So --</p> <p>19 A I think I --</p> <p>20 Q I don't think I understand your testimony now.</p> <p>21 A No. My testimony is correct. I'm probably</p> <p>22 inflating this a little bit where -- saying they</p> <p>23 knew. Okay. Did they exactly know I was writing a</p> <p>24 book? No. The concept of writing a book? There</p> <p>25 was a friend of mine, Adam Brown, who had been</p>	<p style="text-align: right;">Page 231</p> <p>1 A The word "knew." To say that everyone knew that I</p> <p>2 was going to do this, this, and this and -- no.</p> <p>3 Did they know any specifics? No. Could I have</p> <p>4 talked in generalities with several of my friends,</p> <p>5 guys on the team talking about books, talking about</p> <p>6 movies, talking about all of this type of stuff</p> <p>7 going public? Yeah. I talk to a lot of guys. And</p> <p>8 none of them seemed to think that writing about it</p> <p>9 was bad. Right. None of them thought writing</p> <p>10 about -- again, a whole bunch of them had just</p> <p>11 given interviews for a book about a SEAL that was</p> <p>12 at SEAL Team 6. So the idea that anybody gave</p> <p>13 interviews or whatnot was instantly PNG'ed and this</p> <p>14 bad person, no. There was a lot of people in the</p> <p>15 command who supported the idea of writing books.</p> <p>16 Q And when you say writing about -- you're referring</p> <p>17 obviously to Operation Neptune Spear; correct?</p> <p>18 A Yeah.</p> <p>19 Q And at the time that you're writing this e-mail to</p> <p>20 Mr. Luskin, this was within two days of receiving a</p> <p>21 letter from the General Counsel of the Department</p> <p>22 of Defense, which was Exhibit No. 1. It's</p> <p>23 basically saying that you're in violation of your</p> <p>24 nondisclosure agreements and you're going to be</p> <p>25 held accountable; correct?</p>
<p style="text-align: right;">Page 230</p> <p>1 killed several years prior. Right. A whole bunch</p> <p>2 of guys around the command all gave interviews for</p> <p>3 a book for Adam Brown, Fearless. Read it. It's a</p> <p>4 phenomenal book.</p> <p>5 So when I say -- when I'm referring to talking</p> <p>6 to my friends, it's, Hey -- in the theory of, hey,</p> <p>7 supporting another book in those terms. Did I say</p> <p>8 to any of them, Hey, guys, I'm writing a book next</p> <p>9 week and this is -- blah, blah, blah? No.</p> <p>10 Q So are you saying that you were -- what do you mean</p> <p>11 by inflating? What do you mean that you were</p> <p>12 inflating?</p> <p>13 A Inflating what?</p> <p>14 Q Can I have the last answer read back?</p> <p>15 (The requested material was read back by the</p> <p>16 reporter.)</p> <p>17 MR. FURMAN: Okay. Thanks.</p> <p>18 Q You testified that you were inflating this. And I</p> <p>19 want to know what you're inflating.</p> <p>20 RANDAL JOHNSTON: Object to the</p> <p>21 characterization of his testimony.</p> <p>22 MR. FURMAN: I'm quoting it.</p> <p>23 RANDAL JOHNSTON: No, you're not. He said,</p> <p>24 I'm probably inflating, I think.</p> <p>25 MR. FURMAN: Okay.</p>	<p style="text-align: right;">Page 232</p> <p>1 A Okay.</p> <p>2 Q So at that point, do you think that this was</p> <p>3 serious stuff?</p> <p>4 A Sure, absolutely.</p> <p>5 Q And Mr. Luskin was an attorney who was retained to</p> <p>6 respond to the Department of Defense; correct?</p> <p>7 A Yes.</p> <p>8 Q And you didn't know Mr. Luskin personally before</p> <p>9 then; right?</p> <p>10 A No.</p> <p>11 Q You knew he was a serious lawyer; right?</p> <p>12 A Yeah.</p> <p>13 Q And you wanted to be accurate when you spoke to</p> <p>14 him, right, about --</p> <p>15 A Okay.</p> <p>16 Q -- what you knew and what you didn't?</p> <p>17 A Okay.</p> <p>18 Q And isn't it fair -- is that true? You wanted to</p> <p>19 be accurate?</p> <p>20 A Sure.</p> <p>21 Q Okay. And so after a flurry of e-mails about the</p> <p>22 reasons that you wrote the book, you told</p> <p>23 Mr. Luskin in an e-mail that you typed with your</p> <p>24 own hands that you spoke with multiple friends at</p> <p>25 work before you started the book project and every</p>

<p style="text-align: right;">Page 233</p> <p>1 one of them knew that I was doing it for the right 2 reasons. You wrote that; right?</p> <p>3 A Yep.</p> <p>4 Q And you wrote the words, I was doing it, meaning 5 you're writing the book; correct?</p> <p>6 A I wrote those words, yeah.</p> <p>7 Q And so that you told multiple friends before you 8 even gave word that you were retiring while you 9 were on active duty, multiple friends that you were 10 planning to write a book about Operation Neptune 11 Spear. Isn't that a fact?</p> <p>12 A No. The fact is that I talked to some friends in 13 generalities about writing books, certainly about 14 the -- writing a book about the bin Laden mission. 15 Hey, what do you think? That type of stuff. Did I 16 say I was doing it and doing X, Y, and Z? No.</p> <p>17 I would also like to state that I'm a little 18 worked up. My name's leaked. There's tons going 19 on. I'm dropping curse words in this same e-mail 20 to the same e-mail to this big time, you know, D.C. 21 attorney. And I'm obviously a little worked up in 22 this e-mail.</p> <p>23 (Exhibit 28 was marked for identification.)</p> <p>24 Q This is an e-mail exchange that took place on 25 September 25 of 2012. This is almost a month after</p>	<p style="text-align: right;">Page 235</p> <p>1 McRaven -- that's M-C-R-A-V-E-N -- period, closed 2 quote. And then you go on to say, I feel 3 completely comfortable talking to whoever you want, 4 although wouldn't it be easier just to continue to 5 ask the White House as well as SOCOM for a confirm 6 or deny answer that they were interviewed for this 7 book? They can't no comment forever, can they? Do 8 you remember that e-mail exchange with Mr. Ragone?</p> <p>9 A I do after reading it.</p> <p>10 Q Okay. And you have e-mail chains of some sort with 11 Bowden, but you didn't produce them to Mr. Fabiani 12 for some reason. Why didn't you?</p> <p>13 A Nobody ever asked. I guess I mention it in here.</p> <p>14 Q Well, he asked you. He asked you -- Mr. Fabiani -- 15 quote, Of course, if you have any e-mails from him 16 or any documentary evidence, we should at least 17 take a look at it.</p> <p>18 A Okay.</p> <p>19 Q And did you provide those e-mails to Mr. Fabiani?</p> <p>20 A I have no idea. If I had them, I'm assuming that I 21 did.</p> <p>22 Q Now, in the middle of the first page of the e-mail, 23 you wrote -- and I think it's only to 24 Mr. Fabiani -- well, let me start at the bottom of 25 the page. Forgive me. On September 25, 2012,</p>
<p style="text-align: right;">Page 234</p> <p>1 the Jeh Johnson letter. On the second page at 2 1:05 p.m. on September 25, Mark Fabiani, who is a 3 press agent for you, I believe, wrote, What, if 4 anything, are we comfortable saying on background 5 only, parentheses, from a source familiar with the 6 situation, closed parentheses, about what Bowden 7 said to you, comma, what information he asked you 8 for, comma, and in particular what he said about 9 his access to the President, et cetera? And then 10 Mr. Fabiani writes, And, of course, if you have any 11 e-mails from him or any documentary evidence, we 12 should at least take a look at it to see what might 13 be helpful. Thanks. Mark. Do you remember 14 receiving that e-mail?</p> <p>15 A I don't remember it, but --</p> <p>16 Q Now that you see it, is it fair to say you received 17 that e-mail on that day?</p> <p>18 A Yes, yes.</p> <p>19 Q And the timing seems to be off, and it could be 20 because Fabiani's in a different time zone. But 21 your response on September 25 reads, quote, I don't 22 have -- I don't really have many e-mail from him. 23 Most of our discussions were via phone. I saved 24 one voice mail, but it's not the one where he 25 referenced, quote, talking with the President and</p>	<p style="text-align: right;">Page 236</p> <p>1 11:49 a.m., you wrote, Yes, that definitely -- yes, 2 that was definitely one of the things he was 3 telling me. I interviewed the President and 4 McRaven and would love a boots-on-the-ground feel.</p> <p>5 And then from Mark Fabiani, he responded to 6 you and included Elyse Cheney and Peter Ragone. 7 The subject was entitled, Mark, as reporters begin 8 to focus on the Bowden book. And his question was 9 to you, And why did you decide not to cooperate? 10 You see above that, Elyse wrote, Because he was 11 doing his own book. Do you see that?</p> <p>12 A Yep.</p> <p>13 Q And then you responded, I never told him I was 14 doing my own book. I simply said I wasn't sure 15 about it. Is that what you told Mr. Bowden, that 16 you weren't sure if you were writing a book?</p> <p>17 A Appears to be.</p> <p>18 Q Now, do you recall specifically that you told Mark 19 Bowden that?</p> <p>20 A I don't remember the specific conversation, but 21 this seems to be a pretty clear recollection of 22 what I said.</p> <p>23 Q Okay. And finally -- and we'll move off this 24 topic -- you then stated in another e-mail, not 25 including Mr. Podlaski, but it's to Mr. Fabiani,</p>

<p style="text-align: right;">Page 237</p> <p>1 Cheney, and Ragone that, quote, Initial calls 2 were -- when I was still in the Navy but on 3 terminal leave roughly around early April. He then 4 called me in May because he knew I was officially 5 out of the Navy at that point. Do you see that you 6 wrote that?</p> <p>7 A Yep.</p> <p>8 Q Did you tell Mr. Bowden when you'd be officially 9 out of the Navy?</p> <p>10 A I don't remember when I -- what dates or what 11 status I gave him. I -- this was my intent to just 12 kind of slow roll him and be like, Hey, I'm not 13 interested. You know, kind of push him off. He 14 came back around again, had a follow-up 15 conversation, and that was about it, I guess.</p> <p>16 Q Did you tell Mr. Bowden that you could not talk to 17 him when he first started calling you because you 18 were still on terminal leave?</p> <p>19 A I don't remember what I told him.</p> <p>20 Q You wrote the words, Initial calls were when I was 21 still in the Navy but on terminal leave.</p> <p>22 A Right. That's when he would have called me.</p> <p>23 Q And why did you refer to your terminal leave as a 24 reason for not talking to Mr. Bowden?</p> <p>25 A I don't think I told Mr. Bowden I was on terminal</p>	<p style="text-align: right;">Page 239</p> <p>1 A Oh, there we are. Okay. Sorry.</p> <p>2 Q -- at 5:53 p.m., Mark Fabiani writes, Tell me more 3 about why the drone and power cut are so sensitive. 4 And you responded back at the top of the page, I 5 can't get into it for real, but all I can say 6 are -- is -- all I can say is both of those 7 programs weren't known until after the raid. Those 8 would have been examples of programs that would be 9 considered NSAP or special access program. What do 10 you mean by that?</p> <p>11 A Some sort of higher level deal.</p> <p>12 Q What do you mean by deal?</p> <p>13 A There's technology and programs that we didn't want 14 to talk about.</p> <p>15 Q And when you say, We didn't want to talk about, you 16 mean in No Easy Day?</p> <p>17 A That I didn't want to talk about. I stay away from 18 helicopters and technology. I'm simply not going 19 to go there. I'm not going to entertain going 20 where they're going here.</p> <p>21 Q Okay. And both the drone and the power cut were 22 operations that related to Operation Neptune Spear; 23 correct?</p> <p>24 RANDAL JOHNSTON: I'm going to object to that. 25 I will permit him to say they're described in Mark</p>
<p style="text-align: right;">Page 238</p> <p>1 leave and couldn't talk to him. I think I'm 2 referring to his call happened for me to remember 3 timelines, I'm trying to think of big events. 4 Okay. I'm on terminal leave time frame. That's, 5 you know, January through whatever. Okay. Then he 6 called again. Once I was officially out, you know, 7 I don't know. I don't remember telling him status 8 or getting into any type of details. This was me 9 more just saying, Hey, you know, I'm not 10 interested, kind of keep at arm's length. 11 (Exhibit 29 was marked for identification.)</p> <p>12 Q This is a September 28, 2012, e-mail from you to 13 Mark Fabiani, Elyse Cheney, Peter Ragone, and 14 Robert Luskin. Mr. Podlaski is not part of this 15 e-mail exchange. Do you see that?</p> <p>16 A Yes.</p> <p>17 Q And Mr. Fabiani is writing to you. Mark, tell me 18 more about why the drone and power cut are so 19 sensitive.</p> <p>20 And you wrote, I can't get into it for real, 21 dot, dot, dot --</p> <p>22 A Wait. Where are you -- I'm sorry. Where are 23 you --</p> <p>24 Q Oh, I'm in the middle of the first page. And on 25 September 28 --</p>	<p style="text-align: right;">Page 240</p> <p>1 Bowden's book as being related to Operation Neptune 2 Spear as the page 2 of the document reflects.</p> <p>3 A I don't believe I talked about that in the book, 4 and that's stuff that I don't feel comfortable 5 talking about now.</p> <p>6 Q You mentioned that both the drone and the power cut 7 and I'm presuming it's the power cut in the town of 8 Abbottabad, that those are SAPs; correct?</p> <p>9 A I'm not going to confirm or deny what type of 10 special programs there are out there. That would 11 be something in my mind that is something at a 12 level that we don't need to discuss unless the 13 government's here allowing me to discuss them.</p> <p>14 Q Well, you testified earlier that you didn't believe 15 that Operation Neptune Spear was a special access 16 program.</p> <p>17 A I don't believe it was.</p> <p>18 Q Were the drone and the power cut into Abbottabad 19 part of Operation Neptune Spear?</p> <p>20 A Sure.</p> <p>21 RANDAL JOHNSTON: Objection. Don't answer 22 that.</p> <p>23 MR. FURMAN: No. You can't -- I'm insisting 24 on an answer.</p> <p>25 A There are plenty of programs that were involved in</p>

<p style="text-align: right;">Page 241</p> <p>1 that mission that I didn't talk about, just like</p> <p>2 the -- where I chose not to release information</p> <p>3 that was very clearly coming out in open source. I</p> <p>4 did not want to discuss it. I didn't want to talk</p> <p>5 about it. That's part of me being a responsible</p> <p>6 SEAL who's operated for years, and I didn't want to</p> <p>7 talk about programs that could put people in</p> <p>8 jeopardy. Never once was I briefed on any of</p> <p>9 those, anything being SAP or a special program,</p> <p>10 whether it being the power issues or helicopters or</p> <p>11 anything else. And I've simply not talked about</p> <p>12 it.</p> <p>13 Q These programs that you referred to, they related</p> <p>14 to Operation Neptune; correct?</p> <p>15 A I don't know that they were even programs. They</p> <p>16 were a part of the mission, and I chose not to talk</p> <p>17 about those specific parts of the mission because</p> <p>18 in my mind, that would be something that would be</p> <p>19 useful to our enemy. And I wasn't even going to go</p> <p>20 there.</p> <p>21 Q Now, so is it fair to say that there were parts of</p> <p>22 Operation Neptune Spear that you felt uncomfortable</p> <p>23 talking about for the reasons that you described</p> <p>24 because they were --</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 243</p> <p>1 the rest to make sure we didn't cross any lines.</p> <p>2 Q But in terms of deciding whether or not certain</p> <p>3 aspects of Operation Neptune Spear were, in fact,</p> <p>4 too classified for you to write about, why didn't</p> <p>5 you ask your superiors?</p> <p>6 A We were never briefed about any specific piece that</p> <p>7 we could or could not talk about. I chose to use</p> <p>8 my best judgment to do it the way I did and not</p> <p>9 talk about those programs because in my best</p> <p>10 judgment, we didn't even -- it doesn't add to the</p> <p>11 story to talk about it.</p> <p>12 Q And just so I can understand what your best</p> <p>13 judgment is, do you recall any training that you</p> <p>14 received in your military service that would have</p> <p>15 assisted you to exercise that judgment about what</p> <p>16 could be disseminated to the public and what can't</p> <p>17 be?</p> <p>18 A Any training that I received?</p> <p>19 Q Yeah.</p> <p>20 A No in-person training.</p> <p>21 Q So when you say that you exercised your best</p> <p>22 judgment, what are you basing that on?</p> <p>23 A I'm basing that off of 14 years of experience and</p> <p>24 knowing that, hey, there's certain pieces of</p> <p>25 information that if I give out there -- anybody</p>
<p style="text-align: right;">Page 242</p> <p>1 Q -- highly classified; correct?</p> <p>2 A I don't know what their classification status was</p> <p>3 nor was I ever briefed on it. In my own opinion as</p> <p>4 an operator who's operated for years and knew the</p> <p>5 complexities of the mission, whether A to Z, right,</p> <p>6 who goes in a room and goes left and right is way</p> <p>7 different than special technology. And I simply</p> <p>8 wasn't going to talk about the special technology</p> <p>9 no matter -- and I'm not saying at any point there</p> <p>10 was any classification attached to any of that</p> <p>11 because it never was. I just chose to simply not</p> <p>12 talk about it because that's -- that's way</p> <p>13 different than who went left and who went right.</p> <p>14 Q Did you discuss with Mr. Podlaski any aspects of</p> <p>15 the drone or power cut in Abbottabad?</p> <p>16 A Not that I believe.</p> <p>17 Q Did you discuss with Mr. Podlaski that there were</p> <p>18 aspects of Operation Neptune Spear that you believe</p> <p>19 were classified and were at such a high level of</p> <p>20 classification that you could not discuss them?</p> <p>21 A I don't think we had the discussion. We talked</p> <p>22 about how my -- when we would do our best, my</p> <p>23 personal best, to scrub it as I wrote it to make</p> <p>24 sure we didn't cross any type of lines, and then he</p> <p>25 had committed to us that he could be able to scrub</p>	<p style="text-align: right;">Page 244</p> <p>1 with a security clearance has to use their best</p> <p>2 judgment. Right. I had the clearance. I wanted</p> <p>3 to use my best judgment. I erred not to even get</p> <p>4 into any of those things because I didn't even want</p> <p>5 to go there. I wanted to stay away from that. I</p> <p>6 was -- when we even turned the manuscript over to</p> <p>7 Mr. Podlaski, he said, Hey, great job. There's not</p> <p>8 much even in here. So when he did the scrub, he</p> <p>9 didn't think that it -- we had crossed the line in</p> <p>10 any way.</p> <p>11 Q I'm more concerned about what was in your mind --</p> <p>12 A Okay.</p> <p>13 Q -- because I think your counsel's going to ask</p> <p>14 Mr. Podlaski some questions, but I'm more</p> <p>15 interested in what's going on there.</p> <p>16 A All right.</p> <p>17 Q In this e-mail, you also wrote that, quote, Prior</p> <p>18 to the raid, these would be perfect examples of</p> <p>19 sensitive or classified programs. Do you see that?</p> <p>20 A Uh-huh.</p> <p>21 Q How would you know that they were perfect examples</p> <p>22 of sensitive or classified programs?</p> <p>23 A Just in my mind. Right. In my experience, in my</p> <p>24 14 years, nobody runs around talking about special</p> <p>25 technology and tools that we used to target people</p>

<p style="text-align: right;">Page 245</p> <p>1 at that level. Those type of things that I</p> <p>2 purposely chose to avoid that have been written in</p> <p>3 other books, that's a perfect example of me showing</p> <p>4 that, look, I was very concerned about not</p> <p>5 disclosing classified information, and I chose to</p> <p>6 keep it much more at a tighter level. When people</p> <p>7 talk about these other programs, yeah, that's --</p> <p>8 I'm using nomen- -- sensitive programs -- there's</p> <p>9 no exact program assigned to it that I know. I</p> <p>10 just chose to say, Hey, look, I'm not going to talk</p> <p>11 about that.</p> <p>12 Q But based on your 14 years of experience, making</p> <p>13 the decision and using the judgment as to what</p> <p>14 should be sensitive or classified information and</p> <p>15 not to be disclosed in the public, isn't that</p> <p>16 something that should be vetted through a process</p> <p>17 as opposed to being decided by an operator?</p> <p>18 A I didn't know the fine line -- I didn't know all</p> <p>19 the nuances of all the paperwork that I signed,</p> <p>20 which is exactly why I hired an attorney who's a</p> <p>21 former SOCOM JAG who should have understood those</p> <p>22 things and been able to guide me in the right</p> <p>23 direction.</p> <p>24 Q And in this e-mail, you mention that Bowden's book</p> <p>25 obviously does mention these programs. And he</p>	<p style="text-align: right;">Page 247</p> <p>1 Q That's okay. I got you. And e-mails; right?</p> <p>2 A Yes.</p> <p>3 Q What do you recall specifically telling Kevin</p> <p>4 Podlaski about your intentions in terms of writing</p> <p>5 the book?</p> <p>6 A I remember talking at length about our -- my</p> <p>7 security concerns. Right. I -- I had no</p> <p>8 intentions of writing this book wanting to be</p> <p>9 identified. I wanted to remain as anonymous as I</p> <p>10 could. But a lot of discussions about that. We</p> <p>11 talked about the process and what it would look</p> <p>12 like. The -- there was discussions back and forth</p> <p>13 about what nondisclosures I'd sign.</p> <p>14 I didn't remember, as I still don't,</p> <p>15 nomenclature and times and dates. I remember</p> <p>16 asking him more than anything, Look, whatever we're</p> <p>17 doing has to be legal. Right. My biggest concern</p> <p>18 was that this was some sort of gray area, fast --</p> <p>19 whatever. This was -- I wanted it to be legal and</p> <p>20 legit. Otherwise, it didn't do me any good.</p> <p>21 Q Did you tell Mr. Podlaski any details about</p> <p>22 Operation Neptune Spear?</p> <p>23 A Sure. He got to read the manuscript.</p> <p>24 Q When you first engaged him.</p> <p>25 A I'm sure we talked at some level, sure.</p>
<p style="text-align: right;">Page 246</p> <p>1 scored interviews with the President and McRaven,</p> <p>2 hence the double standard. You wrote that --</p> <p>3 A Yeah.</p> <p>4 Q -- correct?</p> <p>5 And at the time, did you think that there was</p> <p>6 a double standard being applied against you?</p> <p>7 A Well, sure.</p> <p>8 Q Did you discuss that with Mr. Podlaski at any point</p> <p>9 in time, that this -- these special access</p> <p>10 programs?</p> <p>11 A I don't think we discussed special access programs.</p> <p>12 I didn't talk about it in the book. Why would I</p> <p>13 discuss special access programs with anybody? Did</p> <p>14 we discuss the double standard? Absolutely.</p> <p>15 MR. FURMAN: Let's take a -- I need a bathroom</p> <p>16 break.</p> <p>17 RANDAL JOHNSTON: Sure.</p> <p>18 (A brief recess was taken.)</p> <p>19 BY MR. FURMAN:</p> <p>20 Q So I want to focus now on Kevin Podlaski. I take</p> <p>21 it you've never met him before this lawsuit.</p> <p>22 A Agree, yes.</p> <p>23 Q And you agree conversations with him were via cell</p> <p>24 phone?</p> <p>25 A Uh-huh, yes. I'll finish this in two seconds.</p>	<p style="text-align: right;">Page 248</p> <p>1 Q And did you tell him what you knew about what level</p> <p>2 of classification of -- that -- what level of</p> <p>3 classification that Operation Neptune involved?</p> <p>4 A My understanding of what was -- what</p> <p>5 classifications were involved, I tried to explain</p> <p>6 that as best I knew.</p> <p>7 Q And what did you tell him?</p> <p>8 A That I didn't -- he kept asking if this was a</p> <p>9 special -- if we had done anything special for this</p> <p>10 mission, and I don't remember signing anything</p> <p>11 special for this mission. I kept going back to,</p> <p>12 well, I remember signing paperwork, you know, when</p> <p>13 you join the Navy or get into the SEAL teams.</p> <p>14 Q And did you produce those documents to</p> <p>15 Mr. Podlaski?</p> <p>16 A I was never asked to produce the documents.</p> <p>17 Q Did you think it was important to give him those</p> <p>18 documents?</p> <p>19 A Not when my attorney with all the experience that I</p> <p>20 knew he had is not asking me for them, no. I</p> <p>21 didn't think I should run around and collect up a</p> <p>22 whole bunch of extra stuff. I gave him everything</p> <p>23 he asked for.</p> <p>24 Q Now, and then he worked with you in terms of</p> <p>25 dealing with Dutton and the book itself?</p>

<p style="text-align: right;">Page 249</p> <p>1 A Yes.</p> <p>2 Q And he suggested some changes, and you agreed with</p> <p>3 them; correct?</p> <p>4 A Yes.</p> <p>5 Q And do you remember what those changes were?</p> <p>6 A Not specifically. I know they weren't big</p> <p>7 meaningful substantial changes.</p> <p>8 Q And did you tell him what your military status was</p> <p>9 at the time that you spoke to him?</p> <p>10 A I answered whatever questions he had. I don't</p> <p>11 remember when we had those conversations or what we</p> <p>12 said. But any question he asked about my status I</p> <p>13 answered.</p> <p>14 Q Did you tell him that you were on terminal leave up</p> <p>15 and through June 28 of 2012?</p> <p>16 A I don't remember exact conversations where we got</p> <p>17 into specifics. I don't know.</p> <p>18 Q The date that you signed the debriefing memorandum</p> <p>19 that was part of Document Number 1, Exhibit No. 1,</p> <p>20 which was dated April 20 of 2012, did you tell</p> <p>21 Mr. Podlaski about that event?</p> <p>22 A I don't think so.</p> <p>23 Q And the document that you signed was termed a</p> <p>24 debriefing memorandum about -- regarding SCI</p> <p>25 material; correct? I can show it to you. We -- I</p>	<p style="text-align: right;">Page 251</p> <p>1 A No. If I was signing out of the command on the</p> <p>2 same day, there's -- that's impossible.</p> <p>3 Q You were confirming a meeting actually. Did you</p> <p>4 recall on that very day, the day that you signed</p> <p>5 out, that you signed that memorandum dealing with</p> <p>6 confidential information -- do you remember that</p> <p>7 day that you exchanged a series of e-mails with</p> <p>8 Adam Biren about having a meeting at DreamWorks?</p> <p>9 A No.</p> <p>10 Q Did you ever tell Kevin Podlaski about the fact</p> <p>11 that you were having a meeting at DreamWorks on</p> <p>12 that day?</p> <p>13 A I don't believe so.</p> <p>14 Q And just so I'm clear, the document that we're</p> <p>15 referring to is called a Sensitive Compartmented</p> <p>16 Information Debriefing Memoranda. And it was dated</p> <p>17 April 20 of 2012. You're saying that you signed</p> <p>18 multiple documents on that day?</p> <p>19 A Probably hundreds.</p> <p>20 Q Hundreds of documents?</p> <p>21 A Probably, yes.</p> <p>22 Q Did you tell Kevin Podlaski that you signed</p> <p>23 hundreds of documents on that day that related to</p> <p>24 your service?</p> <p>25 A No, I don't think so.</p>
<p style="text-align: right;">Page 250</p> <p>1 just want to make sure that you --</p> <p>2 A Yeah, I remember the document.</p> <p>3 Q And it pertained to the handling of classified</p> <p>4 information by you after you leave the military;</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q Did you tell Mr. Podlaski about the fact that you</p> <p>8 signed that document?</p> <p>9 A No, not that I recall.</p> <p>10 Q Why didn't you?</p> <p>11 A I signed no less than a thousand other sheets of</p> <p>12 paper that day. I didn't see one any different</p> <p>13 than the other. And at this point, we had already</p> <p>14 received the advice from Mr. Podlaski that he was</p> <p>15 able to vet the manuscript. I remember which one</p> <p>16 you're talking about.</p> <p>17 Q So do I, but I want to make sure it exists. On</p> <p>18 April 20, you went down to Virginia to sign that</p> <p>19 document?</p> <p>20 A Yeah. All that -- everything I would have done</p> <p>21 that day would have been on the base.</p> <p>22 Q And do you remember also on April 20 actually</p> <p>23 having a meeting at DreamWorks on that day?</p> <p>24 A On the same day?</p> <p>25 Q Yeah.</p>	<p style="text-align: right;">Page 252</p> <p>1 Q You were asking Mr. Podlaski to protect you in</p> <p>2 respect of nondisclosure agreements. You signed</p> <p>3 one on April 20 and you didn't tell him about it?</p> <p>4 A No. I apparently didn't, along with the hundreds</p> <p>5 of other documents. I didn't think it was an</p> <p>6 issue.</p> <p>7 Q Well, did you even tell him that you signed a</p> <p>8 hundred other documents?</p> <p>9 A No.</p> <p>10 Q Do you think it would have been important for him</p> <p>11 to know that?</p> <p>12 A That I signed out of the supply warehouse? No.</p> <p>13 Q Do you think it would have been important for him</p> <p>14 to know that you signed the document that was</p> <p>15 attached to Jeh Johnson's letter on April 20 of</p> <p>16 2012 that dealt with the handling of Sensitive</p> <p>17 Compartmented Information?</p> <p>18 A At this point in time, I was already under the</p> <p>19 impression that Podlaski knew exactly what he was</p> <p>20 talking about and had a firm grasp on the way we</p> <p>21 were moving forward. And so no, I did not think</p> <p>22 one document out of the hundreds that I signed that</p> <p>23 day or any other of the documents would have been</p> <p>24 important. Every document that he asked for I did</p> <p>25 my best to get.</p>

<p style="text-align: right;">Page 253</p> <p>1 Q Now, fast-forwarding to the date that you received</p> <p>2 Jeh Johnson's letter, again, Exhibit No. 1 --</p> <p>3 A Okay.</p> <p>4 Q -- you retained Robert Luskin; correct?</p> <p>5 A I don't believe it was on that day, but shortly</p> <p>6 thereafter, yes.</p> <p>7 Q It was within hours or days that this letter --</p> <p>8 Luskin was responding on your behalf.</p> <p>9 A Yeah. It was over the end of the weekend, I think.</p> <p>10 I think there was a holiday weekend. I don't</p> <p>11 remember. I just remember -- I think there was a</p> <p>12 holiday weekend. And by Monday or Tuesday, we had</p> <p>13 hired Luskin.</p> <p>14 Q And Mr. Luskin at some point thereafter to the best</p> <p>15 of your knowledge conferred with Mr. Podlaski?</p> <p>16 A I believe so.</p> <p>17 Q When did that stop?</p> <p>18 A When did they stop communicating?</p> <p>19 Q Yeah.</p> <p>20 A I have no idea.</p> <p>21 Q When did you stop communicating with Mr. Podlaski?</p> <p>22 A Again, I don't remember dates. I can remember some</p> <p>23 of the last interactions we had were asking about</p> <p>24 the FOIA requests that he had submitted for us to</p> <p>25 figure out what other manuscripts had been -- had</p>	<p style="text-align: right;">Page 255</p> <p>1 A No. I think I started hearing that more from Alan</p> <p>2 Enslen, my new attorney, when I was dealing with</p> <p>3 No Hero. I mean, the -- I don't think we -- I</p> <p>4 thought the hope was this -- was that, hey, we were</p> <p>5 going to be able to get through this and this</p> <p>6 wasn't going to be an all-out showstopper until we</p> <p>7 were running through the review process with Alan</p> <p>8 and No Hero. And that's when it became a little</p> <p>9 more apparent like, okay, no, there's something</p> <p>10 wrong here. We got bad advice.</p> <p>11 Q When did you start writing No Hero?</p> <p>12 A I don't remember the dates. I'd have to look at</p> <p>13 the contract.</p> <p>14 Q Was it after you received the Jeh Johnson letter?</p> <p>15 A Yeah.</p> <p>16 Q And why didn't you hire Kevin Podlaski to represent</p> <p>17 you?</p> <p>18 A I was already dealing with legal drama. Right.</p> <p>19 Something -- not sure what, but some fuses had</p> <p>20 gotten crossed, and we're now having legal issues.</p> <p>21 I've hired -- we've put on the team Mr. Luskin so</p> <p>22 he can focus on the criminal side of things.</p> <p>23 Mr. Podlaski was still working on his side on the</p> <p>24 team to secure FOIA requests and answer some of</p> <p>25 those mail -- or those answers. When I decided to</p>
<p style="text-align: right;">Page 254</p> <p>1 been submitted and published without any type of</p> <p>2 review. And we discussed that.</p> <p>3 Q Well, after the Jeh Johnson letter, there came a</p> <p>4 point in time when -- let me rephrase that.</p> <p>5 Do you remember a conversation -- or you were</p> <p>6 told about a conversation that Mr. Luskin had with</p> <p>7 a professor named Jack Goldsmith?</p> <p>8 A Not specifically.</p> <p>9 Q And did Mr. Luskin advise you about his</p> <p>10 interactions with the Department of Defense?</p> <p>11 A Initially? That day? From then until now? What</p> <p>12 are we talking --</p> <p>13 Q From then until now.</p> <p>14 A Yes. Of course, I got updates from Bob in regards</p> <p>15 to what was going on.</p> <p>16 Q Okay. So every time Mr. Luskin or Bob, as you</p> <p>17 referred to him, would interact with the Department</p> <p>18 of Defense or any investigator, he would clue you</p> <p>19 in and update you on what took place?</p> <p>20 A Not every time, no.</p> <p>21 Q Did there come a point in time when Mr. Luskin told</p> <p>22 you that the advice that you received from</p> <p>23 Mr. Podlaski was wrong?</p> <p>24 A Not that I can distinctly remember.</p> <p>25 Q Did he ever tell you that?</p>	<p style="text-align: right;">Page 256</p> <p>1 write another book, why would I use the same</p> <p>2 attorney that -- no. I'm going to seek a third</p> <p>3 party and use them to focus on that one task.</p> <p>4 Q What was the last thing you asked Mr. Podlaski to</p> <p>5 do for you?</p> <p>6 A I don't know that I asked him to do -- we -- the</p> <p>7 last discussion I remember having was about the</p> <p>8 FOIA requests and how he would get those back to me</p> <p>9 once he heard.</p> <p>10 Q Did you ask him for the FOIA requests?</p> <p>11 A We certainly discussed it throughout the case,</p> <p>12 yeah.</p> <p>13 Q And what did the FOIA requests pertain to?</p> <p>14 A Other books -- my understanding is other books that</p> <p>15 have been published with or without governmental</p> <p>16 review.</p> <p>17 Q So after August 30 of 2012, when did you speak to</p> <p>18 Mr. Podlaski next?</p> <p>19 A I don't recall.</p> <p>20 Q Did he send you any bills?</p> <p>21 A I don't recall.</p> <p>22 Q Did you ask him to update you on anything in</p> <p>23 particular?</p> <p>24 A FOIA requests was definitely one of them.</p> <p>25 Q When was that?</p>

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1 A I don't remember.
 2 Q And are you saying that you prompted that request?
 3 A No. We talked about the FOIA requests and all the
 4 books that have been published when the drama first
 5 hit. And it was his idea to go out and -- hey,
 6 look, let's do these FOIA requests so we can prove
 7 that there's other books out here that have done
 8 similar things and -- okay. Great idea. Let's run
 9 those around. That could give something for the --
 10 give us something to use.
 11 Q And when did you discuss that FOIA request issue?
 12 A I don't remember.
 13 Q And was it by e-mail or by telephone?
 14 A E-mail.
 15 Q And who was included on those e-mails?
 16 A I don't remember.
 17 Q And did you ask Mr. Podlaski to do that on your
 18 behalf?
 19 A Well, I don't know what other behalf I would be
 20 asking him to do it for.
 21 Q Okay.
 22 A He was my attorney. He had represented me up until
 23 that point. I don't see anybody else he would be
 24 representing at that point.
 25 Q Well, I mean, at the time that you received the

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1 FOIA requests information from Mr. Podlaski, did
 2 Mr. Luskin already tell you that the advice you got
 3 from Mr. Podlaski was incorrect, that it relates to
 4 No Easy Day?
 5 A No. We were still waiting for the FOIA -- because
 6 we never got those answers. We never got an answer
 7 on the FOIA request.
 8 Q And did Mr. Luskin ever tell you that the advice
 9 you got from Mr. Podlaski was incorrect?
 10 A Certainly not until I started looking into it with
 11 Alan. But the whole way I ended up finding Randy
 12 was through a coworker of Alan's. So it certainly
 13 didn't come through Mr. Luskin referring me or
 14 saying, Hey, look, you've been screwed in any way.
 15 No, I don't remember seeing that at all.
 16 Q When did you hire Mr. Enslen?
 17 A Dates again, I don't know. I'd have to go back and
 18 look.
 19 Q Was it in 2012?
 20 A You're going to kill me on dates here. I don't
 21 know.
 22 Q Well, if we leave a space in the record, could you
 23 fill us in on that?
 24 A Absolutely, absolutely.
 25 Q And did you discuss Mr. Podlaski with Mr. Enslen?

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1 A I don't know that I discussed Mr. Podlaski in
 2 personal terms, but he certain -- Alan --
 3 Mr. Enslen obviously knew at that point what I had
 4 been dealing with. My main concern was making sure
 5 we do it the right way and wanting Alan to help.
 6 Q And Mr. Enslen, I take it, billed you for services;
 7 correct?
 8 A Yes, sir.
 9 Q And Mr. Luskin, I take it, billed you for his
 10 services?
 11 A Yes, sir.
 12 Q When was the last time you received a bill from
 13 Mr. Podlaski?
 14 A I don't remember.
 15 Q And if someone does work for you, lawyer, gardener,
 16 barber, you'd expect them to bill you for their
 17 services, right?
 18 A Yep.
 19 Q After September 30 of 2012, did you ever get a bill
 20 for services from Mr. Podlaski?
 21 A I don't know the dates, but we definitely discussed
 22 billing. And he said he would bill me after he got
 23 the FOIA requests back.
 24 Q Did you ever get a bill from Mr. Podlaski after the
 25 FOIA requests?

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1 A Not that I remember. And I've had so many bills
 2 from lawyers over the past four years, I wouldn't
 3 remember if I got one from this guy. No offense to
 4 any lawyers in the room.
 5 RANDAL JOHNSTON: A little taken.
 6 Q In the retainer agreement that you signed with
 7 Mr. Podlaski, did it include any services that
 8 would have been involved after the book was
 9 published?
 10 A I don't know what that means.
 11 Q Well, let's turn to it. It's Exhibit No. 3. And
 12 this is the retainer. I tore it apart, but we'll
 13 put it back together. And it states that, You
 14 asked me to assist you with the legal issues you
 15 may encounter in contracting with Dutton. And
 16 there's the publisher about your -- for the
 17 publication of the manuscript. And it says,
 18 Reviewing the publishable manuscript that -- to
 19 ensure your compliance with obligations under any
 20 agreements that you may sign with the U.S.
 21 Government.
 22 Did you expect Mr. Podlaski to continue to
 23 work for you after the contract with Dutton was
 24 completed and after his review of the manuscript?
 25 A Yeah.

<p style="text-align: right;">Page 261</p> <p>1 Q Why? Why did you expect that?</p> <p>2 A He was -- when I signed on with him, it was to help</p> <p>3 me through the whole process of the book No Easy</p> <p>4 Day. It didn't end in my mind with just the --</p> <p>5 just the Dutton contract and he was done or just</p> <p>6 the reviewing the manuscript. No. Until this</p> <p>7 whole thing's complete, you're part of the team.</p> <p>8 That's the way I looked at it.</p> <p>9 Q But is it fair to say that when you hire someone</p> <p>10 and there's a retainer agreement, that their</p> <p>11 relationship with you is governed by the document;</p> <p>12 right?</p> <p>13 RANDAL JOHNSTON: Object to the form of the</p> <p>14 question. It's calling for a legal conclusion.</p> <p>15 Q So you can answer.</p> <p>16 A Can you restate the question or --</p> <p>17 Q Yeah. Is it fair to say that your relationship</p> <p>18 with Kevin was governed by this retainer agreement?</p> <p>19 RANDAL JOHNSTON: Same objection.</p> <p>20 THE WITNESS: Do I answer or no?</p> <p>21 RANDAL JOHNSTON: You can answer.</p> <p>22 A Yeah, sure.</p> <p>23 Q And you read and you signed it before you sent it</p> <p>24 back to him?</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 263</p> <p>1 A So --</p> <p>2 Q And you didn't expect Kevin Podlaski to be involved</p> <p>3 in that, did you?</p> <p>4 A He was part of the team. He was one of the</p> <p>5 first -- he was the first attorney that we brought</p> <p>6 in so my mind is that that team doesn't go away</p> <p>7 certainly months and months later when he's --</p> <p>8 we're still talking about FOIA requests and being a</p> <p>9 part of the team and applying answers and solutions</p> <p>10 back into the center of the team so we can</p> <p>11 hopefully fix this problem. No, I did not see --</p> <p>12 Q So the retainer relates to the contract with</p> <p>13 Dutton. And there were no issues with the contract</p> <p>14 with Dutton; correct?</p> <p>15 A No.</p> <p>16 Q And that was --</p> <p>17 A Huh-uh.</p> <p>18 Q -- done; right?</p> <p>19 And there was a review of the manuscript to</p> <p>20 ensure compliance with obligations of any</p> <p>21 agreements you may have signed. You see that in</p> <p>22 the retainer; right?</p> <p>23 A Yep.</p> <p>24 Q And we discussed it, but you didn't give him the</p> <p>25 nondisclosure agreements and also the debriefing</p>
<p style="text-align: right;">Page 262</p> <p>1 Q And you didn't expect him to do a real estate</p> <p>2 closing for you, right, obviously?</p> <p>3 A No. He's not a real estate attorney.</p> <p>4 Q You had Richard Heller deal with other aspects of</p> <p>5 your business venture; right?</p> <p>6 A Yep.</p> <p>7 Q And in terms of dealing with the fallout from the</p> <p>8 book, you hired Mr. Luskin; right?</p> <p>9 A The criminal fallout, yes.</p> <p>10 Q It was also -- there was a civil fallout, too,</p> <p>11 because there was a civil procedure that was</p> <p>12 involved?</p> <p>13 A Everybody's got their specialty. I wanted to keep</p> <p>14 everybody on the team with their individual</p> <p>15 specialties and hopefully we can fix the problem.</p> <p>16 Q And Mr. Luskin, it wasn't just a criminal -- so I</p> <p>17 understand correctly, Mr. Luskin was retained to</p> <p>18 represent you not only with any criminal</p> <p>19 investigations that took place, which we're going</p> <p>20 to get to in a moment, but also the civil</p> <p>21 forfeiture action that was taking place as well?</p> <p>22 A He handled the DoD and whatever came out of it. We</p> <p>23 didn't know what would come out of it at the</p> <p>24 beginning.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 264</p> <p>1 memo that you signed in 2012?</p> <p>2 A I gave him every bit of information he asked for.</p> <p>3 Q But beyond that, after the review of the</p> <p>4 manuscript, was there anything else in the retainer</p> <p>5 agreement that you're aware of that would have</p> <p>6 required Mr. Podlaski to continue to represent you?</p> <p>7 A No, not in that agreement that I can see. If --</p> <p>8 just like with Mr. Luskin, right, we started off</p> <p>9 with one thing and that trailed into four other</p> <p>10 things, and he represented me through all of that.</p> <p>11 My understanding is when I sign on with an</p> <p>12 attorney -- he just bails at one minute? No.</p> <p>13 We're -- it's still the same problem. Right. No</p> <p>14 Easy Day. We're still working the same issue.</p> <p>15 And at no point in my mind was it, okay, no,</p> <p>16 he's off the team, not until much, much later when</p> <p>17 I'm dealing with Alan and seeing that there's</p> <p>18 obviously bigger issues and the issue with the</p> <p>19 government's not going away at this point.</p> <p>20 Q When did Alan refer you to this honorable gentleman</p> <p>21 to your left?</p> <p>22 A I don't know the exact date.</p> <p>23 Q And was it in 2012, 2013?</p> <p>24 A It would have been right as we even contemplated</p> <p>25 writing a second book.</p>

<p style="text-align: right;">Page 265</p> <p>1 Q It was around that time?</p> <p>2 A Yeah. It would have been when we were going to</p> <p>3 start writing another one. Okay. Well, let's</p> <p>4 track down Alan.</p> <p>5 Q But what I'm asking is, when did Alan refer you or</p> <p>6 introduce you or someone through Alan's office</p> <p>7 introduced you to Mr. Johnston?</p> <p>8 A I don't remember the dates. At the beginning of</p> <p>9 the relationship with Alan and I.</p> <p>10 Q So towards the -- at some point in the beginning of</p> <p>11 your relationship with Alan when you were -- when</p> <p>12 you hired Alan to represent you with -- in</p> <p>13 connection with No Easy Day -- with No Hero --</p> <p>14 A Yeah.</p> <p>15 Q -- he or someone in his office referred you to</p> <p>16 Mr. Johnston to investigate a lawsuit against</p> <p>17 Mr. Podlaski; correct?</p> <p>18 A Yes.</p> <p>19 Q And do you recall when that took place?</p> <p>20 A I don't.</p> <p>21 Q Okay. Who was the person from Mr. Enslen's office</p> <p>22 that referred you to Mr. Johnston?</p> <p>23 A I believe it was an individual by the name of Drew</p> <p>24 Kitchen.</p> <p>25 Q Drew Kitchen?</p>	<p style="text-align: right;">Page 267</p> <p>1 Mr. Johnston, not when you hired him?</p> <p>2 A It would have been right at the same time.</p> <p>3 Q Going back to the date of the Jah Johnson letter on</p> <p>4 August 30, who was the first person you called?</p> <p>5 Did you call Kevin Podlaski?</p> <p>6 A I don't remember who the first person I called was.</p> <p>7 I was a little bit in shock.</p> <p>8 Q Okay. Did you have any individual phone calls with</p> <p>9 Mr. Podlaski at any point thereafter?</p> <p>10 A A few here and there. And even after -- much, much</p> <p>11 further down the road, we had a few. He called,</p> <p>12 text, whatever it was. I don't remember the</p> <p>13 specifics. A few short conversations, nothing</p> <p>14 crazy that I remember. But I know we spoke a few</p> <p>15 times.</p> <p>16 Q Did he provide you with legal advice?</p> <p>17 A I'm sure that's why we were talking. I know one of</p> <p>18 the exchanges -- and it might have been via</p> <p>19 e-mail -- he had found some pictures of bin Laden</p> <p>20 online and was asking me if they were real or not.</p> <p>21 Q Other than that, other than that one instance about</p> <p>22 the picture of bin Laden, what other conversations</p> <p>23 did you have with Mr. Podlaski?</p> <p>24 A I don't remember specific conversations.</p> <p>25 Q And how about the legal advice that he gave you?</p>
<p style="text-align: right;">Page 266</p> <p>1 A An attorney at the firm.</p> <p>2 Q Is it spelled like -- you know, like a kitchen?</p> <p>3 A Yes.</p> <p>4 Q Okay. And was that referral made by e-mail or in</p> <p>5 person or by telephone communication?</p> <p>6 A I couldn't tell you. Probably both.</p> <p>7 Q Let me just take one second.</p> <p>8 A Yeah.</p> <p>9 Q I just need a minute.</p> <p>10 (A brief recess was taken.)</p> <p>11 MR. FURMAN: We can go on the record.</p> <p>12 Q Yes.</p> <p>13 A On the dates of when I hired Randy, I was off on</p> <p>14 that. The -- and we've got the engagement letters</p> <p>15 and whatnot to prove the dates, but we did not hire</p> <p>16 Randy until the end of the publication of No Hero.</p> <p>17 So it was towards the -- we had gone through</p> <p>18 writing it and Alan had represented me that whole</p> <p>19 time. We went through the -- we were going through</p> <p>20 the review process of No Hero. Somewhere in there</p> <p>21 before the publication is when we hired Randy. So</p> <p>22 it was much, much further to the right. And I</p> <p>23 apologize for that.</p> <p>24 Q No, that's okay. My question to you is different.</p> <p>25 My question is, when did Mr. Kitchen refer you to</p>	<p style="text-align: right;">Page 268</p> <p>1 What did it deal with?</p> <p>2 A The majority -- the legal advice dealt with -- we</p> <p>3 were just trying to wrap our head around what was</p> <p>4 going on with the government. It was questions of,</p> <p>5 Hey, what nondisclosures -- what was your status?</p> <p>6 What did you sign? Were you still in the Navy?</p> <p>7 Were you out of the Navy? Those type of questions.</p> <p>8 Q When did those conversations take place?</p> <p>9 A Pretty much throughout our whole relationship.</p> <p>10 Q Well, when was the last conversation you had with</p> <p>11 him about that?</p> <p>12 A I'd have to go back and look at the e-mail.</p> <p>13 Q And it would have been documented through e-mails?</p> <p>14 A Sure. We had very few phone conversations. Most</p> <p>15 everything was e-mail or -- would be via e-mail, I</p> <p>16 believe.</p> <p>17 Q Do you recall Mr. Luskin ever telling you not to</p> <p>18 talk to Mr. Podlaski?</p> <p>19 A Never.</p> <p>20 Q Did Mr. Luskin ever tell you not to talk to</p> <p>21 Mr. Podlaski?</p> <p>22 A Never.</p> <p>23 Q Did Mr. Enslen ever tell you not to talk to</p> <p>24 Mr. Podlaski?</p> <p>25 A Not that I remember.</p>

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1 Q Did you ever tell Mr. Podlaski, I can't talk to you
2 for any particular reason?

3 A No.

4 Q What legal advice did you ask of Mr. Podlaski after
5 August 30 of 2012?

6 A We continued to talk about the -- what I call the
7 hypocrisy, right, the -- hey, let's get these FOIA
8 requests. Let's figure out what other people out
9 there had gone through what channels, what review
10 processes, and try and firm up that end of the
11 defense like, hey, look, there are other people out
12 there doing this type of thing and that the advice
13 he had given me was correct.

14 Q Did --

15 A Luskin focused more on dealing with repercussions
16 of it.

17 Q Now, Mr. Luskin was dealing with responding to the
18 letter, right, to Mr. Johnson's letter and the
19 government's charges against you?

20 A Yeah. I wouldn't say he responded just to the
21 letter, but he was hired to handle the criminal
22 side.

23 Q And that investigation, you reference it as
24 criminal, but it involves a civil forfeiture --

25 A Yeah.

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1 Q -- aspect as well. It deals with the release of No
2 Easy Day, correct?

3 A What are you talking about? The --

4 Q Well, I'll refer specifically to Mr. Johnson's
5 letter. The Department of Defense -- in this
6 letter, it states that the Department of Defense
7 has obtained and reviewed an advanced copy of the
8 book entitled, No Easy Day, authored by you. As
9 you understand it, this book is due to be released
10 next week, though copies of the book have
11 apparently been -- already been released. In the
12 judgment of the Department of Defense, you are in
13 material breach and violation of the nondisclosure
14 agreements you signed. Further dissemination of
15 your book will aggravate your breach and violation
16 of your agreements. Do you see that?

17 A Yep.

18 Q And Mr. Johnson was handling that aspect on your
19 behalf -- I'm sorry, Mr. Luskin was representing
20 you as to that aspect of the government's claims
21 against you?

22 A Yeah. He was hired to handle -- to go back to Jeh
23 Johnson and start figuring out what a solution to
24 this might be.

25 Q Okay. And did you expect Mr. Podlaski to do that

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1 for you, to interface and respond to the
2 government?

3 A No. I wanted to hire a specialist who was in D.C.
4 who could -- who was co-located in D.C. and came
5 with a reputation.

6 Q Okay. Did you discuss with Mr. Luskin whether or
7 not you should delay or simply not disseminate,
8 further disseminate No Easy Day?

9 A I think that was a whole team discussion back to
10 what we talked about earlier. Right. We had input
11 from --

12 Q I'm asking you about your conversation with
13 Mr. Luskin.

14 A I don't remember a specific one-on-one discussion
15 with Mr. Luskin where we determined what we were
16 going to do with the book. That was absolutely a
17 discussion that everybody had a say in and that we
18 formulated the best decision we could based off of
19 the team's input.

20 Q And who made the final decision?

21 A I would have loved to have put the brakes on this
22 and done something different, but the fact of the
23 matter was we couldn't. Right. So there wasn't
24 really anybody to stand up and make a huge decision
25 and say, No, recall the book. Stop it. We

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1 couldn't. It was already out.

2 So inevitably I'm sure you could say it would
3 be my responsibility to do that, quarterback it,
4 whatever you want to call it. But based off the
5 circumstances we were working under, we had very
6 little ability to even make that decision. It had
7 almost been made for us because the books had
8 already been shipped.

9 Q August 30 is the date that the -- of the letter,
10 and the publication date was September 11 of
11 2012 --

12 A Yeah.

13 Q -- correct?

14 So that's 11 days at least, right, to not
15 release the book?

16 A Books were already shipped. They were prestaged at
17 locations. That was not my doing. I didn't -- I
18 was told they were already shipped, and there was
19 no way to recall them. That helped drive that
20 situation -- that decision massively.

21 Q Did you --

22 A Plus we were hearing from Mr. Podlaski that the
23 sooner we got it out, the sooner they could read it
24 and see there's nothing classified in it and all of
25 this would go away.

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1 Q Did Mr. Luskin agree with that advice?

2 A There wasn't much to disagree with because of the

3 fact that the books were already published. I

4 think a lot of people would have wished we were

5 sitting in a different position at that time, but

6 we weren't. We were sitting in the position we

7 were, which meant the books had already been

8 shipped, and that limited any decision making. It

9 limited our options.

10 Q Well, why couldn't you simply just tell Dutton

11 that, I don't want to release the book?

12 A Because -- okay. We could have gone through that

13 whole piece, but the fact of the matter is the

14 books were already prelocated. People know this is

15 out. According to Ben and the publishing industry,

16 right, once you send these to these bookstores,

17 it's up to the bookstore to keep them in the back

18 until publication day. Now, when this comes out,

19 there's no guarantee that some knucklehead at

20 the -- you know, their home bookstore is not going

21 to take the box out and put it on sale. We had no

22 way of controlling that.

23 Q And who's telling you that? Mr. Sevier?

24 A Yes.

25 Q So are you saying that Mr. Sevier told you that you

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1 have no alternative, that you have to proceed with

2 the book?

3 A I'm not saying he said we had no alternative. I'm

4 saying as part of the team, he briefed us on his

5 portion, which was, Hey, guys, look, as you guys

6 make your decision, I need to inform you that,

7 look, these books are out there. We can't call

8 them back. That's got to weigh in on your

9 decision-making.

10 Q And your decision-making was impacted by that, I

11 presume?

12 A Absolutely.

13 Q But just so I understand it, are you saying it was

14 impossible to simply just not publish the book

15 until the government had an opportunity to review

16 it?

17 A From what I was being told, yes, because the books

18 were already shipped at the locations, and there

19 was no way to confirm that one of those books

20 didn't get out. As soon as one book gets out, we

21 could go back, hold the book, go through the review

22 process, redo the book if there's one still out

23 there. Now all of a sudden if there is anything

24 classified in there, you've got two different

25 versions. That doesn't work for the government or

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1 anybody else. And so again, based off the fact

2 that we could not control those books, that drove

3 that decision.

4 Q And who told you that, that because there would

5 have been two versions of the book presumably,

6 assuming that there was any changes by the

7 government, that you still would have been in

8 violation of your nondisclosure agreements?

9 A I don't remember who told me that specifically.

10 That was a discussion the whole team had about the

11 right decision to make in this situation. Again,

12 the advice I'm getting from the attorney I've had

13 the whole time was, Hey, look, let's just get it

14 out there. As soon as they see it, they'll know

15 there's nothing classified in it, and this will go

16 away.

17 Q And did Mr. Luskin disagree with that?

18 A I don't think there was much to disagree with

19 because, again, we were pushed into this situation

20 with not being able to pull the books back.

21 Q There came a point in time when the position

22 changed, correct, and that you took the position

23 with the government that you relied on erroneous

24 advice from Mr. Podlaski, correct?

25 A Yeah.

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1 Q When did that take place?

2 A When I sat down with the government and dealt with

3 them through this whole mess.

4 Q There came a point in time when Mr. Luskin was

5 negotiating with Mr. Johnson, Jeh Johnson, a

6 resolution of the government's dispute with you

7 writing the book. Do you recall that?

8 A There was a point --

9 Q When Mr. Luskin was negotiating with Jeh Johnson.

10 A Sure. He's been doing that for years.

11 Q When did the negotiations first start?

12 A I'm sure when he replied to his e-mail.

13 Q And was Mr. Podlaski involved in any of those

14 negotiations?

15 A No, not that I know of. I mean, I'm sure --

16 Q Did you ask Mr. Podlaski to be involved in those

17 negotiations?

18 A That's not why we hired him.

19 Q And was there any point in time when Mr. Luskin had

20 negotiated a different percentage of the

21 forfeiture; in other words, that you would keep

22 60 percent, the government would keep 40 percent or

23 something along those lines?

24 A Yeah. There was a point -- I don't remember. It

25 was -- timeline-wise.

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1 Q Was it in September of 2012?

2 A I don't remember the dates, but I know they had --

3 they had -- at least the initial negotiations with

4 Jeh had landed some sort of percentage split, and

5 then as that drug on and drug on, then they said,

6 Hey, before we even do this, we want to make sure

7 we run a criminal investigation, and then that

8 started.

9 Q And the criminal investigation, Mr. Luskin

10 represented you in that respect as well; right?

11 A Yep.

12 Q Let me just flip back to August 30. You mentioned

13 the team; right? Who organized the team meetings?

14 A Whoever needed to.

15 Q When did they take place?

16 A As often as any -- we weren't co-located. Most

17 people weren't co-located so everything was via

18 e-mail. So there wasn't really a directive of

19 saying, Okay, guys, we're only going to talk every

20 Friday at noon. It was, Hey, look -- I grew up on

21 teams where everybody talked as often as they need

22 to accomplish a common goal. All right. Everybody

23 was working on the team. I didn't care how much or

24 how little they talked. I assumed that everybody

25 on the team was talking to come up with the best

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1 outcome for me.

2 Q Was there any group discussions or any telephone

3 calls you're aware of?

4 A Plenty of group e-mails. I'm sure there was group

5 conference calls, all sorts of communication going

6 back and forth trying to figure out a solution.

7 Q Well, you said that you're sure, but did you

8 participate in any of those?

9 A Sure, some.

10 Q Was Mr. Podlaski on any of those calls?

11 A I don't remember who was on the calls.

12 Q Well, can you tell me one instance where

13 Mr. Podlaski was on a group call with you and

14 Mr. Luskin?

15 A I can't. I know Elyse handled a lot of stuff for

16 me. No, I don't know. I don't remember specific

17 calls, times, dates, who was on the calls.

18 Q Do you recall having calls with Mr. Luskin after he

19 was hired?

20 A A few, yeah.

21 Q Do you recall any conversations where Mr. Luskin

22 and Mr. Podlaski were on the call together?

23 A No. I knew they were speaking. I knew they had

24 talked. Great. I didn't need to get between them.

25 It's a team. Again, everybody has their little

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1 specialty. I understood everybody was working

2 their specialty trying to come up with the best

3 outcome.

4 Q The book actually was released before September 11;

5 correct?

6 A Yep.

7 Q So in some sense, there was a bit of doubling down

8 because the original date was September 11;

9 correct?

10 A Yes.

11 Q So the reaction to Jeh Johnson's letter wasn't to

12 stop the book from being published. The reaction

13 was to accelerate the book's publication.

14 A Yes.

15 Q Who made that decision?

16 A It was part of the team decision. Again, we

17 couldn't recall it, and the advice we were getting

18 from Mr. Podlaski was, Hey, get this thing out as

19 soon as possible. They'll read it. They'll know

20 there's nothing classified in it and you'll be

21 fine. The heat will die off.

22 Q Did Mr. Podlaski tell you that verbally?

23 A I'm sure there's e-mails somewhere.

24 Q Do you recall him telling you that?

25 A On a phone call?

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1 Q Yeah.

2 A No. We had very few phone calls.

3 Q And did Mr. Podlaski give you specific advice to

4 accelerate and move up the date of the publication?

5 A I don't remember the exact nuances of how that

6 exact decision was made, but I took input from

7 everybody on the team and heard repeatedly that,

8 Hey, look, the sooner we get this out, the better.

9 It will calm them down a little bit once they can

10 read it and see there's nothing crazy in it.

11 Q And was it your decision ultimately to accelerate

12 the date?

13 A I can stand responsible for that, yeah. Not that I

14 had much control over it, but in the end, it's my

15 book, so...

16 Q At some point in time, you did admit that it was an

17 error to not submit the book for a prepublication

18 review; correct?

19 A Yeah, absolutely.

20 Q And did Mr. Luskin advise you in that negotiation

21 with the government to make that admission?

22 A I don't think anybody needed to advise me at that

23 point. Once we had gone through years of this and

24 they had come after me repeatedly and showed me all

25 the documents that I signed that very clearly state

<p style="text-align: right;">Page 281</p> <p>1 what they state, there's no arguing with that. I</p> <p>2 wasn't going to continue to argue. I wasn't going</p> <p>3 to continue to argue a losing battle.</p> <p>4 Q And you believe that the documents were clearly</p> <p>5 drafted, the nondisclosure agreements, that you had</p> <p>6 no chance to fight back against the government?</p> <p>7 A Yeah. When you're sitting there with the</p> <p>8 government and they're showing you the same</p> <p>9 documents you've showed me in detail, yeah. I</p> <p>10 don't think there's any way around that. And</p> <p>11 certainly going through the review process with</p> <p>12 No Hero, it exposed me to a whole -- exposed me to</p> <p>13 the exact process, and I got to kind of see the</p> <p>14 ying and the yang.</p> <p>15 Q If you did submit the book, do you know whether it</p> <p>16 would have been allowed to be published?</p> <p>17 A Yeah.</p> <p>18 Q How do you know?</p> <p>19 A Because when I sat down with the government and</p> <p>20 they pointed out anything they had issues with, it</p> <p>21 was all a whole bunch of little minute stuff that</p> <p>22 they spun up to make a big deal out of.</p> <p>23 Q And who at the government would have made the final</p> <p>24 decision on whether the book could have been</p> <p>25 published or not if you had submitted the book for</p>	<p style="text-align: right;">Page 283</p> <p>1 A Yeah.</p> <p>2 Q So it would not have been just the Department of</p> <p>3 Defense. It would have included the CIA?</p> <p>4 A Yeah.</p> <p>5 Q It would have included SOCOM?</p> <p>6 A Yeah.</p> <p>7 Q And it may have included other agencies?</p> <p>8 A I don't know what other agencies. Those are the</p> <p>9 big ones. Right. CIA, Department of the Navy,</p> <p>10 SOCOM. Those are the three that would focus on me.</p> <p>11 I guess if I worked in a different department,</p> <p>12 maybe there would be a different reviewing</p> <p>13 department above that.</p> <p>14 Q And what makes you believe that all those agencies</p> <p>15 would have permitted an operator to write a book</p> <p>16 about the killing of bin Laden and would have</p> <p>17 allowed it to be published before the election of</p> <p>18 2012? What makes you believe that?</p> <p>19 A I believe they would have allowed it to be</p> <p>20 published. Now, giving it a time frame, I don't</p> <p>21 know when they would have allowed the time frame of</p> <p>22 it. That's -- I think that's a different question.</p> <p>23 Allowing it? Yeah. These same heads of these</p> <p>24 departments were authorizing movies and doing their</p> <p>25 own thing anyway. So do I think they had an issue</p>
<p style="text-align: right;">Page 282</p> <p>1 a review?</p> <p>2 A There's multiple reviewing agencies, and each one</p> <p>3 that has their own opinions.</p> <p>4 Q And do you know the opinions of all those agencies?</p> <p>5 A No.</p> <p>6 Q So do you have any way of knowing whether or not</p> <p>7 the book would have been --</p> <p>8 A I sat down with the government agency who had</p> <p>9 already talked with every single agency and every</p> <p>10 single agency had marked what they thought might</p> <p>11 have been classified or sensitive or what they</p> <p>12 wouldn't have wanted in the book. And I got to sit</p> <p>13 down with the feds, and they got to go through each</p> <p>14 one of those little things with me. And I'm not</p> <p>15 going to get into specifics because I'm obviously</p> <p>16 not -- but names, locations, some photos of some</p> <p>17 technologies, some very minor stuff.</p> <p>18 Q What were the different agencies that would have</p> <p>19 had to review the book?</p> <p>20 A CIA, DO -- Department of the Navy, SOCOM. I don't</p> <p>21 know who else is, but I know there's a couple</p> <p>22 others.</p> <p>23 Q So there are multiple agencies that would have had</p> <p>24 to review your book No Easy Day for it to have been</p> <p>25 published and authorized; correct?</p>	<p style="text-align: right;">Page 284</p> <p>1 with talking about it? No. I think we've seen</p> <p>2 they've had no issue with talking about it at the</p> <p>3 government level for their own advantages.</p> <p>4 Why do I think it would have been published?</p> <p>5 Because I sat there after every single agency got</p> <p>6 to review No Easy Day, and I sat there with a</p> <p>7 single point of contact who went through every</p> <p>8 single issue that every single department had and</p> <p>9 there wasn't anything that we couldn't have written</p> <p>10 around very easily or simply deleted the photo out</p> <p>11 of the picture -- or out of the book.</p> <p>12 Q Now, advanced copies were sent to various agencies;</p> <p>13 correct?</p> <p>14 A Yeah.</p> <p>15 Q And this was in August; right?</p> <p>16 A I don't remember when the advanced copies were</p> <p>17 sent, but --</p> <p>18 Q But well before Jeh Johnson's letter; right?</p> <p>19 A I believe so.</p> <p>20 Q And so the various agencies saw your book and Jeh</p> <p>21 Johnson wrote a letter on August 30 saying this</p> <p>22 book is not allowed; correct?</p> <p>23 A Correct.</p> <p>24 RANDAL JOHNSTON: Object to the</p> <p>25 characterization of the letter. It speaks for</p>

<p style="text-align: right;">Page 285</p> <p>1 itself.</p> <p>2 Q In essence, Jeh Johnson's letter was saying this</p> <p>3 book is not authorized?</p> <p>4 RANDAL JOHNSTON: Same objection.</p> <p>5 A My understanding is the letter says you failed to</p> <p>6 go through your review process. I've gone through</p> <p>7 four years of craziness with the government and</p> <p>8 here I am four years later, and the only thing</p> <p>9 they've said is, You failed to seek prepublication</p> <p>10 review.</p> <p>11 Q And the decision on prepublication review, that's</p> <p>12 discretionary up to the agency; correct?</p> <p>13 A No. According to the documents we've looked at</p> <p>14 today, it's not discretionary.</p> <p>15 Q So it's your belief that there's no discretion that</p> <p>16 the various agencies have as to whether they would</p> <p>17 allow an operator to write a book about Operation</p> <p>18 Neptune Spear. Is that your testimony?</p> <p>19 A Repeat the question.</p> <p>20 (The requested material was read back by the</p> <p>21 reporter.)</p> <p>22 A Read it one more time, please. I'm sorry.</p> <p>23 (The requested material was read back by the</p> <p>24 reporter.)</p> <p>25 A So the key is there's no discretion? Is that --</p>	<p style="text-align: right;">Page 287</p> <p>1 from 40 percent of the royalties to ultimately</p> <p>2 100 percent? What happened?</p> <p>3 A They -- they then said, Okay, I'll stop. We want</p> <p>4 to do a criminal investigation to see if I violated</p> <p>5 the Espionage Act or -- they had a whole list of</p> <p>6 things. And we sat down there and, what, spent</p> <p>7 another year and a half with them, something like</p> <p>8 that. Maybe not quite that long, but we spent some</p> <p>9 time going through that. And at the end, the deal</p> <p>10 was what it was. I mean, that's when it changed.</p> <p>11 Q Did that criminal investigation entail your</p> <p>12 activities while you were on duty with the Element</p> <p>13 Group?</p> <p>14 A The criminal investigation looked into every aspect</p> <p>15 of my life and every business venture, every</p> <p>16 consulting gig, everything I've done. And after,</p> <p>17 what, almost four years, they declined across the</p> <p>18 board.</p> <p>19 Q Okay. Well, after four years, you signed an</p> <p>20 agreement where you forfeited 100 percent of your</p> <p>21 royalties; correct?</p> <p>22 A Yes.</p> <p>23 Q So the government got something out of you, didn't</p> <p>24 they?</p> <p>25 A Sure.</p>
<p style="text-align: right;">Page 286</p> <p>1 Q Yeah. Are you saying there's no discretion, that</p> <p>2 the government must allow you to write a book if</p> <p>3 you submit it for a prepublication review?</p> <p>4 A I think there's -- there's -- they can -- there's</p> <p>5 discretion they can use on what I print or what</p> <p>6 words that I use, but do I have the freedom of</p> <p>7 speech? Yeah, I have the ability to go out and</p> <p>8 write a book, but I have to run it through the</p> <p>9 proper channels.</p> <p>10 Q But a book about Operation Neptune Spear.</p> <p>11 A Right.</p> <p>12 Q Do you believe that the government has discretion</p> <p>13 as to whether to allow an operator like yourself to</p> <p>14 write a book about that operation?</p> <p>15 A I think I could -- I get the right to write a book</p> <p>16 that I want. Now, they can go in and they can try</p> <p>17 and say, You can't say this word and you can't say</p> <p>18 this and you can't show this picture of this</p> <p>19 technology. Sure, absolutely. They have the right</p> <p>20 to review that to make sure there's no material in</p> <p>21 there that they deem inappropriate.</p> <p>22 Q When -- and I'm sorry. That's your understanding</p> <p>23 of how the review process works?</p> <p>24 A I believe so.</p> <p>25 Q Okay. Why did the negotiation through Lusk go</p>	<p style="text-align: right;">Page 288</p> <p>1 Q The criminal investigation also looked into your</p> <p>2 activities with Medal of Honor: Warfighter;</p> <p>3 correct?</p> <p>4 A Sure.</p> <p>5 Q And that's something that you didn't tell</p> <p>6 Mr. Podlaski about; right?</p> <p>7 The criminal investigation involved your</p> <p>8 activities with the Element Group; correct?</p> <p>9 A Uh-huh.</p> <p>10 Q That's something you didn't tell Mr. Podlaski</p> <p>11 about; right?</p> <p>12 The criminal investigation also involved your</p> <p>13 retention -- alleged retention of information and</p> <p>14 artifacts from the raid itself, including a picture</p> <p>15 of the corpse and some other items; correct?</p> <p>16 A Yep.</p> <p>17 Q Mr. Lusk represented you in connection with that;</p> <p>18 right?</p> <p>19 A Yep.</p> <p>20 Q You didn't tell Mr. Podlaski about this aspect;</p> <p>21 right?</p> <p>22 A No. That wasn't his specialty.</p> <p>23 Q Well, you never told Mr. Podlaski that, for</p> <p>24 example, you had certain artifacts from the raid</p> <p>25 itself?</p>

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1 A I didn't get into any of those details when I hired
 2 Luskin. We got there through the course of the
 3 investigation. So did I feel the need to tell
 4 Mr. Podlaski about consulting work that I did when
 5 I was in? No, just like I didn't tell Luskin when
 6 I first hired him.
 7 Q And so the investigation that took years, that
 8 encompassed the Eastern District of Virginia later
 9 on; right?
 10 A Yeah.
 11 Q And initially started in San Diego. Was that
 12 through SOCOM?
 13 A I don't know who it was through.
 14 Q But it was the Navy Criminal -- the NCIS, I think
 15 it's called, or --
 16 A There was a rep in the room, but it was a Justice
 17 Department...
 18 Q Okay. There came a point in time when you asked
 19 Mr. Podlaski to produce his file on your behalf.
 20 And there was some delay. Is that --
 21 A Yeah.
 22 Q -- accurate?
 23 A I believe so. I know Luskin, I think, was handling
 24 a lot of that. I don't know how all the timeline
 25 of that --

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1 Q Do you know why there was a delay, if there was one
 2 at all?
 3 A I have no idea.
 4 Q Well, in the complaint -- let me refer you to the
 5 complaint. Here, I'll show you paragraph 37. It
 6 states that, After repeated requests and months of
 7 delay, defendants finally forwarded Bissonnette
 8 some, though still not all, of his file.
 9 Bissonnette again demanded his entire file. Even
 10 after more delay, defense sent a second production
 11 of documents and then represented they produced
 12 Bissonnette's entire file. Bissonnette's --
 13 Bissonnette produced the file to the government
 14 conveying defendant's representation that this was
 15 his entire file. It wasn't. Do you know what that
 16 refers to?
 17 A I'm not savvy with all the admin legal talk, but I
 18 know when I sat down with the government, I said,
 19 Look, I'm more than willing to give up my
 20 attorney-client privilege. Look, we'll get all the
 21 documents we can. We'll show them to you. I've
 22 got nothing to hide. This was not me trying to go
 23 around my legal obligations. Look, I hired an
 24 attorney with great experience through SOCOM.
 25 Okay. Here, look. Give us your file. We'll give

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1 it to the government. And I know there was some
 2 back and forth there. I know when we were sitting
 3 there with the Department of Justice folks, they
 4 had stuff that we didn't have. And I know Luskin
 5 kind of went back and forth with them on missing
 6 information. Do I know the specifics of that? No.
 7 Q Well, do you know what information was missing?
 8 A I'm sure we could find out or I could ask Bob.
 9 Q Well, it's in the complaint. And I want to know
 10 why you're alleging that against my client, that he
 11 didn't produce all the documents.
 12 A Well, I can get with Mr. Luskin because there was
 13 very much some heated debate between the Department
 14 of Justice and the facts and paperwork that they
 15 had and what we had told we had been supplied from
 16 your client.
 17 Q Well, do you know what documents my client did not
 18 produce?
 19 A No. I'm not --
 20 Q And who would know that?
 21 A I would guess Mr. Luskin would.
 22 Q And you're guessing that?
 23 A I'm sure Mr. Luskin would.
 24 Q So Mr. Luskin would be the source of the
 25 information that pertains to your claim that my

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1 clients failed to produce your file to the
 2 government. That's a claim that you're alleging,
 3 that they breached their fiduciary duty.
 4 A Yeah.
 5 Q I want to understand how you can claim that.
 6 A Because I sat there in a meeting with the
 7 Department of Justice who had information that we
 8 didn't have that they said they received from
 9 Mr. Podlaski, and we did not have that same
 10 information. So I don't know what that is. I
 11 don't know what it means. But I know when the
 12 justice guy is sitting there saying, Well, what
 13 about this, and Luskin's saying, I don't know what
 14 you're talking about -- he's like, Well, we got
 15 this from Podlaski. And we don't have matching
 16 paperwork. I'm guessing there's issues. Beyond
 17 that, I'm not a lawyer. I couldn't talk to you in
 18 specifics.
 19 Q But I'm not asking you -- I know you're not a
 20 lawyer. But I know that you're a plaintiff and
 21 you're suing my clients. And you're alleging that
 22 he breached his fiduciary duty by failing to
 23 provide documents to the government. I'm asking
 24 you very simply, what documents are you talking
 25 about?

<p style="text-align: right;">Page 293</p> <p>1 RANDAL JOHNSTON: And he's answered that.</p> <p>2 Q And is your answer only Mr. Luskin knows this?</p> <p>3 A I'm sure we can track those down for you and get</p> <p>4 further information if that's what you're looking</p> <p>5 for. Do I have that information for you right now?</p> <p>6 No.</p> <p>7 Q And did you ever have that information?</p> <p>8 A Specific information? No. I don't know what the</p> <p>9 specific stuff was.</p> <p>10 Q And you don't know if it's one page, 10,000 pages.</p> <p>11 You have no idea?</p> <p>12 A No. I know it was significant enough for the</p> <p>13 Department of Justice to accuse us of not providing</p> <p>14 certain things and we had no idea what was going</p> <p>15 on. So it --</p> <p>16 Q And when you say the government was alleging you</p> <p>17 failed to provide certain things, what certain</p> <p>18 things are you referring to?</p> <p>19 A Paperwork. We didn't have paperwork that they</p> <p>20 seemed to have. And they had issues with that.</p> <p>21 Q What paperwork are you referring to?</p> <p>22 A I don't know.</p> <p>23 Q Did the government do any investigation on the</p> <p>24 criminal side of your activities in relation to</p> <p>25 Zero Dark Thirty to the extent that they --</p>	<p style="text-align: right;">Page 295</p> <p>1 Q Are you saying those two were separate?</p> <p>2 A Yep.</p> <p>3 Q Why do you say that?</p> <p>4 A Because they were two different matters. One was</p> <p>5 investigating the publication of No Easy Day</p> <p>6 without seeking prepublication review, and the</p> <p>7 other had to do with consulting for a movie,</p> <p>8 consulting tech -- all the other stuff that they</p> <p>9 looked into.</p> <p>10 Q But at one point in time Mr. Luskin had a deal that</p> <p>11 was negotiated, perhaps a 60/40 or 70/30 split on</p> <p>12 the royalties. And then that stopped. Why?</p> <p>13 A I think I mentioned --</p> <p>14 RANDAL JOHNSTON: Objection to the predicate</p> <p>15 of the question.</p> <p>16 A I don't know why it stopped other than I know that</p> <p>17 they wanted to launch a criminal investigation to</p> <p>18 make sure there was nothing criminal going on</p> <p>19 before they made some sort of settlement.</p> <p>20 Q Let me just relate back to the question about</p> <p>21 Mr. Podlaski's alleged failure to produce the file</p> <p>22 that you referred to. And it's the breach of</p> <p>23 fiduciary claim. How were you damaged by that?</p> <p>24 A I don't know how to articulate that.</p> <p>25 Q Well, are you damaged by that?</p>
<p style="text-align: right;">Page 294</p> <p>1 A As I said, they looked into every aspect of my</p> <p>2 life.</p> <p>3 Q Did they look into your involvement with Zero Dark</p> <p>4 Thirty?</p> <p>5 A Yes, sir.</p> <p>6 Q And Mr. Luskin represented you in connection with</p> <p>7 that?</p> <p>8 A Yes, sir.</p> <p>9 Q Did he also -- and you didn't tell Mr. Podlaski</p> <p>10 about your involvement with Zero Dark Thirty?</p> <p>11 A No.</p> <p>12 Q And how about Chief Consulting? Was that a part of</p> <p>13 the investigation by the government?</p> <p>14 A Yep.</p> <p>15 Q And any point in time did you ever tell</p> <p>16 Mr. Podlaski about your involvement with Chief</p> <p>17 Consulting?</p> <p>18 A No, nor did I Mr. Luskin until we got there in the</p> <p>19 investigation.</p> <p>20 Q The investigations into these other matters that</p> <p>21 had no relation to No Easy Day, did that have an</p> <p>22 impact to the best of your knowledge on the</p> <p>23 negotiation with the government over the civil</p> <p>24 forfeiture of the royalties of No Easy Day?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 296</p> <p>1 A Yeah.</p> <p>2 Q How?</p> <p>3 A I felt damaged as they were sitting there</p> <p>4 threatening us because we hadn't produced all the</p> <p>5 documents when we thought we had.</p> <p>6 Q Okay. And other than that, any other damage other</p> <p>7 than the threat?</p> <p>8 A Not that I know of at this time.</p> <p>9 Q Well, when would you know it?</p> <p>10 A When I --</p> <p>11 Q It's 2016.</p> <p>12 A Well, maybe I could sit down with the rest of my</p> <p>13 attorneys and have it better described to me</p> <p>14 exactly how that lack of fiduciary duty and lack of</p> <p>15 presenting those documents have affected us. Did I</p> <p>16 get into the weeds of how that really affected us?</p> <p>17 No, I haven't. But I certainly could get smart on</p> <p>18 it.</p> <p>19 Q Well, you've been involved in this lawsuit with</p> <p>20 Mr. Podlaski now for a solid three years; right?</p> <p>21 A Sure.</p> <p>22 Q And it could even be longer for all I know. In the</p> <p>23 three-year period of time, you can't tell me how</p> <p>24 you've been damaged by this claim that Mr. Podlaski</p> <p>25 failed to produce the file?</p>

<p style="text-align: right;">Page 297</p> <p>1 A I try very hard not to think about Mr. Podlaski or 2 any of this when I go to sleep at night. 3 Q We'll follow up with a demand for an itemized list 4 of your damages that relate to this alleged failure 5 to -- 6 A Perfect. 7 Q -- produce the file. And we'll simply just have to 8 reserve the right to ask you more questions about 9 that. 10 A Perfect. I'll get smart on it. 11 Q Now, in terms of the other matters that Mr. Luskin 12 represented you on, at the current moment, how much 13 in terms of attorneys' fees have you paid? 14 A Close to 800,000. 15 Q 800,000? 16 A I believe so -- ish. I'd have to look at the 17 latest bills. 18 Q And of the 800,000-ish in terms of legal fees, how 19 much of that related to Mr. Luskin's representation 20 of you in terms of the criminal investigation that 21 related to matters outside of No Easy Day? 22 A I would say none of this would have happened -- 23 none of these follow-on issues ever would have 24 happened had we not published No Easy Day without 25 prepublication review.</p>	<p style="text-align: right;">Page 299</p> <p>1 separate. Right. The matters at which they were 2 investigating and looking into were totally 3 separate. But these -- the consulting and the 4 chief stuff, Element Group, would not have had 5 happened without the lack of prepublication review 6 for No Easy Day. 7 Q In terms of Mr. Luskin's bills in raw percentages, 8 how much of it would you say is attributable simply 9 just to the negotiation of the civil forfeiture 10 action as it relates to No Easy Day? 11 A The No Easy Day portion of all of his bills? 12 Q Correct. 13 A 70 percent, 80 percent. 14 Q 80 percent of it. And so that 20 or 30 percent of 15 the investigation dealt with matters that related 16 to Chief Consulting? 17 A The secondary investigation that was launched and 18 Chief Consulting and whatnot. And I may be off on 19 those percentages. I'd have to go back and look at 20 the bills. 21 Q So after \$800,000 worth of legal fees, you paid 22 100 percent of your royalties? 23 A Sure did. 24 Q Why didn't you simply just surrender your royalties 25 in 2012? Why did you continue to fight the civil</p>
<p style="text-align: right;">Page 298</p> <p>1 Q How do you know that? 2 A My -- because my consulting services that I did 3 when I was in that they came after me for, the 4 command approved. I saw it. The JAG approved my 5 doing that. Right. No Easy Day comes out, they 6 clear me of all wrong-doing on No Easy Day. They 7 then launch another investigation back into my 8 Chief Consulting that they knew I had did and I had 9 sought JAG approval when I did it. 10 So to say that those are separate matters, I 11 don't believe. I don't believe that they all of a 12 sudden out of the blue decided to come after me 13 over these little things if it weren't for the fact 14 that I had pissed them off with the publication of 15 No Easy Day and not seeking the review. 16 Q Earlier you said that -- the fact that the civil 17 forfeiture resulted in 100 percent of the royalties 18 being surrendered to the government had nothing to 19 do with the other investigations; correct? 20 A Right. 21 Q So now you're saying that they're intertwined? 22 A No. 23 RANDAL JOHNSTON: Object to the 24 characterization. 25 A I'm saying the legal defenses might have been</p>	<p style="text-align: right;">Page 300</p> <p>1 forfeiture for all those years? 2 A I don't think I fought the civil forfeiture. 3 Right. We were still negotiating a civil 4 settlement. Then they launched the criminal piece, 5 and the criminal piece lasted from A till the end. 6 So -- so look, when -- there was no upside to 7 continue to fight, zero. 8 Q Was the resolution of the civil forfeiture 9 completely contingent on the resolution of the 10 criminal investigation related to the other aspects 11 of your naval career? 12 A Not that I know of. 13 Q So why couldn't you simply just resolve the civil 14 forfeiture in 2012 and continue to deal with the 15 government on the other -- 16 A You'd have to ask the DOJ on that one. 17 Q -- investigations? 18 A You'd have to ask DOJ on that. 19 Q Okay. Only the DOJ would know that? Is that what 20 you're telling me? 21 A That's the first place I'd start. 22 (A brief recess was taken.) 23 Q Before we took a quick break, I just have a quick 24 question for you that relates to Mr. Luskin. Since 25 August of 2016, did you pay any additional fees to</p>

<p style="text-align: right;">Page 301</p> <p>1 Mr. Luskin? The reason I ask is that as -- in your 2 response to interrogatories that was dated 3 August 2016, you -- we asked you how much you spent 4 and paid Mr. Luskin, and the reference was 5 \$782,425. Have you paid any additional fees beyond 6 that? 7 A Sure. I've paid legal fees since then. I don't 8 know what the number's at, but I've -- every month 9 I get a bill. 10 Q And what do they relate to? 11 A I'd have to go back and look. Through the closure 12 of this whole thing. I haven't got a bill since we 13 finalized this thing. So I'd have to go back 14 and -- if you need me to recalculate the total 15 legal -- 16 Q Okay. 17 A -- bills, I can. 18 Q And was that all Mr. Luskin's firm -- 19 A Yeah. 20 Q -- not Mr. Enslen? 21 A No, just Mr. Luskin. 22 MR. FURMAN: Okay. We'll take a quick break. 23 (A brief recess was taken.) 24 Q Mr. Bissonnette, do you recall the date that you 25 first appeared on 60 Minutes? Do you remember the</p>	<p style="text-align: right;">Page 303</p> <p>1 itself. 2 A Yep. 3 Q Did Mr. Luskin advise you that you can go ahead and 4 give that kind of information publicly? 5 A No. 6 Q Who did you rely on? 7 A Mr. Podlaski and then -- and the information that 8 we'd been operating on the -- to that point. 9 Q Did you specifically ask Mr. Podlaski whether it 10 would be appropriate for you to appear on 60 11 Minutes? 12 A No. But based off his background and other authors 13 he had represented who had been on 60 Minutes 14 following books, he never told me not to. I assume 15 that there was no issues. 16 Q Did you tell Mr. Podlaski that you were preparing 17 to appear on 60 Minutes on November 2, 2014? 18 A I don't remember when I relayed that information 19 or -- but I'm sure everybody on the team knew I was 20 going to be on 60 Minutes. 21 Q Well, I'm asking you what you and Mr. Podlaski -- 22 did you have a conversation with him directly and 23 advise him that you were going to appear on 24 60 Minutes on November 2, 2014? 25 A I don't recall a specific conversation.</p>
<p style="text-align: right;">Page 302</p> <p>1 date? 2 A I don't. 3 Q Was Mr. Luskin representing you at that time? 4 A Yes. 5 Q Was Mr. Podlaski representing you at that time? 6 A Yeah. 7 Q During that first 60 Minutes interview, you blamed 8 Mr. Podlaski for giving you bad advice essentially. 9 A In the first interview? 10 MR. FURMAN: Was it the first interview? It 11 was the second. 12 Q Second. 13 MS. LEMKHEIN: Second interview. 14 Q Well, yeah. Let me ask you about the first 15 interview first. Now, you wore a disguise, I 16 believe -- 17 A Yes. 18 Q -- for that interview. Did you seek permission 19 from anyone before you appeared on 60 Minutes? 20 A No. 21 Q Did you ask for permission? 22 A No. I was operating under the same guidelines that 23 I had operated under from Mr. Podlaski. 24 Q And during that 60 Minutes interview, you used a 25 model and a diagram, and you went through the raid</p>	<p style="text-align: right;">Page 304</p> <p>1 Q Oh, I'm sorry. And I made a mistake. On 2 September 24, 2012. That was the first -- 3 A First one. 4 Q The first one. And let me just ask a clean set of 5 questions. You appeared for the first interview on 6 60 Minutes on September 24 of 2012; correct? 7 A If that's the date you looked up, yes. 8 Q Yeah. And that was when you wore a disguise and 9 you did a diagram of the compound where you found 10 Osama bin Laden; correct? 11 A Yes. 12 Q Did you ask Mr. Podlaski for advice as it related 13 to your appearance on 60 Minutes? 14 A I don't think I got into any specific, Hey, tell me 15 what to do here and here and here. No, I don't 16 think -- I don't recall having a conversation like 17 that. 18 Q Did Mr. Podlaski come with you to appear on 60 19 Minutes? 20 A No. 21 Q Did Mr. Luskin appear with you? 22 A Yes. 23 Q So you had a lawyer there when you appeared at the 24 studios for 60 Minutes? 25 A Yes.</p>

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1 Q And that was Mr. Luskin; right?

2 A Yes.

3 Q Did you ask Mr. Luskin to confer with Mr. Podlaski

4 about the 60 Minutes interview?

5 A No.

6 Q You appeared for a second interview with 60 Minutes

7 on November 2 of 2014. Do you recall that?

8 A I recall the interview, not specifically on the

9 date. But if you're telling me that's the date,

10 sure.

11 Q Okay. Did you wear a disguise on that day as well?

12 A Yeah, both.

13 Q Okay. During that second interview, did you blame

14 Mr. Podlaski for the advice he gave you?

15 A I did not blame Mr. Podlaski about the advice he

16 gave me.

17 Q Did you say during that interview that you got

18 erroneous advice about whether you were allowed to

19 publish the book?

20 A Yes. I said I got bad advice.

21 Q And when did you first come to the conclusion that

22 you got bad advice? I presume it was before

23 November 2 of 2014. When did you?

24 A I don't remember a specific date or time where I

25 said, Hey, look, I am now in this mess because I

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1 got bad advice. I could have drawn that conclusion

2 at any point. I don't know.

3 Q Well, at what point did you draw that conclusion?

4 A I don't remember. Somewhere along the line.

5 Q Did any lawyer tell you that you got bad advice?

6 A We didn't get into any talking with other lawyers

7 about the bad advice and the process and how --

8 what had happened that -- those discussions were

9 much further along when -- through the process with

10 Alan and No Hero.

11 Q During the first interview with 60 Minutes, were

12 you asked whether you were authorized to present

13 this information on live television?

14 A I don't think they asked me that.

15 Q Did anyone --

16 A I don't remember them asking me that.

17 Q Did anyone from 60 Minutes, any of the producers

18 ask whether you had authority to speak about the

19 bin Laden raid before you appeared for that

20 interview?

21 A No.

22 RANDAL JOHNSTON: You're talking about the

23 first interview?

24 MR. FURMAN: The first one.

25 RANDAL JOHNSTON: Thank you.

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1 A No -- nobody asked me that, not that I remember.

2 Q Did you ask Mr. Luskin whether it was appropriate

3 for you to give that interview on September 24 of

4 2012?

5 A I don't think I ever asked Luskin that.

6 Q Do you think that your appearance on 60 Minutes on

7 September 24 of 2012 caused the government to take

8 more action against you?

9 A No.

10 Q You think it had no impact on the government's

11 decision to investigate or otherwise seek complete

12 forfeiture of the royalties of your book?

13 A No. I'd classify that in along the lines with all

14 the other stuff they came after me for. In the

15 end, what were they most pissed about? The fact

16 that I did not seek prepublication review. And I

17 think that's telling in the end of our agreement

18 that we finally reached is that's the single piece

19 that they're most mad about. So I would say I

20 don't think the extra 60 Minutes interview caused

21 any significant heartache.

22 (Exhibit 30 was marked for identification.)

23 Q Before you, what's been marked as Exhibit 30,

24 Exhibit 30 is responses to interrogatories that

25 were drafted in connection with this case. Do you

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1 recall whether or not you reviewed these before

2 they were sent out?

3 A Yeah, I'm sure I would have reviewed them.

4 Q And these are responses to specific questions that

5 were being asked that you relate to your case

6 against Mr. Podlaski and his law firm; correct?

7 RANDAL JOHNSTON: Can I --

8 A I'm seeing a whole bunch of e-mails.

9 RANDAL JOHNSTON: -- stop you for a minute?

10 MR. FURMAN: Sure.

11 RANDAL JOHNSTON: I'm looking back at the

12 question you asked, and it referenced

13 interrogatories. And what I have as Exhibit 30 is

14 Plaintiff's Response to First Set of Requests for

15 Production.

16 MR. FURMAN: You're absolutely right. I

17 misspoke. It's response to request for production.

18 You're absolutely right.

19 Q So Exhibit 30 is your response to request for

20 production of certain documents.

21 A Okay.

22 Q And I apologize for misspeaking.

23 A That's all right.

24 Q Did you review this document with your lawyer?

25 A Yeah. We've gone over it.

<p style="text-align: right;">Page 309</p> <p>1 Q Now, question 29 asked you for all documents 2 reflecting loss of income incurred as a result of 3 your military reputation being tarnished as alleged 4 in paragraph 50 of the complaint. And request 5 number 30 asks for all documents concerning 6 consulting jobs and speaking engagements you have 7 had from August 2012 through the present day. And 8 I want to refer you to a document that is a 9 spreadsheet that -- the numbers are -- the docs 10 aren't numbered. I'm going to show it to you. It 11 starts off with several dates, the first date being 12 January 21 of 2013.</p> <p>13 A Okay.</p> <p>14 Q And the location is Austin, Texas. And there's 15 \$15,000 listed there.</p> <p>16 A Okay.</p> <p>17 Q What does that reflect? I'm not sure if I 18 understand what this spreadsheet is.</p> <p>19 A It's income from speaking events.</p> <p>20 Q And that's income to you?</p> <p>21 A Yes, or to my company.</p> <p>22 Q Okay. Which company is that?</p> <p>23 A Front Sight Focus.</p> <p>24 Q Okay. And through Front Sight Focus, you would 25 have derived 100 percent of those fees? In other</p>	<p style="text-align: right;">Page 311</p> <p>1 different folks on a contract basis.</p> <p>2 Q How much does Tamera make on a yearly salary?</p> <p>3 A I'd have to look it up. I don't know.</p> <p>4 Q Is it less than \$50,000?</p> <p>5 A Probably a little above that.</p> <p>6 Q And what does she do?</p> <p>7 A She handles all the admin side of things.</p> <p>8 Q So it's somewhere in the range of \$50,000 she 9 makes?</p> <p>10 A I'm guessing. I'd have to go look in the books. I 11 don't know.</p> <p>12 Q How many employees do you have other than Tamera 13 and James?</p> <p>14 A That's it.</p> <p>15 Q You don't know their salaries?</p> <p>16 A I don't keep track of all that stuff, no.</p> <p>17 Q So all these years that Tamera and James have 18 worked for you, you don't know how much you pay 19 them?</p> <p>20 A If -- I know Tamera's on a -- on salary. James was 21 on for a little while and then he -- actually he 22 was on a contract basis most of the time. And 23 his -- his rates fluctuated depending upon what we 24 were doing.</p> <p>25 Q He was paid by the hour?</p>
<p style="text-align: right;">Page 310</p> <p>1 words, \$15,000 would have been --</p> <p>2 A The company would have made that. I have some 3 employees I pay and overhead for travel and 4 whatnot. But that is the -- that's the, what, 5 gross.</p> <p>6 Q How many employees does Front Sight have?</p> <p>7 A It's fluctuated. I've brought different people on 8 for different things.</p> <p>9 Q How many?</p> <p>10 A Three, two, one, kind of depends on what we're 11 doing.</p> <p>12 Q So never more than three at a time?</p> <p>13 A No, other than for short events.</p> <p>14 Q And in 2013, what was the overhead for salaries 15 other than yours?</p> <p>16 A I don't know off the top of my head.</p> <p>17 Q Was it more than \$100,000?</p> <p>18 A No.</p> <p>19 Q It would have been less than that?</p> <p>20 A They're very similar -- very close but not -- not 21 much more than that, I don't think.</p> <p>22 Q Who were the three employees for Front Sight?</p> <p>23 A Right now is -- I'm -- I have one, Tamera, Tamera 24 Watt, and then I had James Smith hired. And then 25 depending upon the different events, I'd hire</p>	<p style="text-align: right;">Page 312</p> <p>1 A No, by the event.</p> <p>2 Q How much in 2013 did you pay James?</p> <p>3 A I'd have to go back and pull his W-9.</p> <p>4 Q And what was his job?</p> <p>5 A He'd help me come up with content. He'd help me 6 with different events depending on who we were 7 talking to. He had an athletic background so if we 8 spoke to athletic organizations -- if we were going 9 in to talk to the Houston Texans, he'd get a 10 portion of that, you know, up to \$10,000 of the fee 11 to come in and co-present with me.</p> <p>12 Q In 2013, these various speaking engagements, you 13 earned \$517,000; correct?</p> <p>14 A That's what that says, yes.</p> <p>15 Q Who prepared this spreadsheet, by the way?</p> <p>16 A Tamera.</p> <p>17 Q And Austin, for example, what was that?</p> <p>18 A How much was it for?</p> <p>19 Q \$15,000.</p> <p>20 A I'd say that was -- they're all speaking events. 21 I'd say Austin at 15- was probably an event for a 22 YPO organization.</p> <p>23 Q And there was -- I'm just being -- picking them 24 out --</p> <p>25 A Right.</p>

<p style="text-align: right;">Page 313</p> <p>1 Q -- just out of a hat here. In La Jolla on 2 September 12 of 2013, \$25,000, what was that? 3 A Speaking event. I couldn't tell you who it was 4 for. They're all for different -- I've done 5 athletic events. I've -- the YPO organization. 6 I've done corporations. I've done Toyota, Lexus, 7 Sea World. You name it. They all pay different 8 rates. Some want me to spend an hour there. 9 Others want me to spend the day there. So that's 10 why they probably all fluctuate. 11 Q And 2014, you had a busy year speaking. And you -- 12 when I say you, Front Sight Focus earned 13 \$1.264 million for speaking engagements. 14 A Okay. 15 Q So you had virtually an over 100 percent increase 16 in your speaking engagements from 2013 to 2014? 17 A Right. 18 Q And what was your overhead in 2014 for Front Sight? 19 A Employees, any business expenses, travel expenses, 20 meals while traveling. 21 Q In a ballpark, how much would that have been? 22 A I don't know. I'd have to look at it. And I know 23 we probably spent 500,000 in travel. 24 Q \$500,000 in travel? 25 A I'll bet you we did.</p>	<p style="text-align: right;">Page 315</p> <p>1 know -- I know this year we're definitely down. 2 Q Well, this is 2016. 3 A Right. 4 Q And this is now four years after your book was 5 written and -- 6 A The first book. 7 Q The first book. Fair to say that time goes on, 8 celebrities get elected President, Cleveland wins 9 the NBA championship, and the Cubs win the World 10 Series? So time moves on. Is that fair to say? 11 A Sure. 12 Q And the notoriety that you earned through the 13 release of No Easy Day, that's now going to be five 14 years; correct? 15 A Yep. 16 Q And is it your belief that the interest in the 17 Osama bin Laden raid would continue to grow 18 exponentially? 19 A No. 20 Q Is it fair to say that the interest in an event 21 like that or any event in history would start to 22 subside over time? 23 A Sure. The bigger the event, the longer it lasts. 24 Q Okay. Unless it's surpassed by other bigger 25 events; correct?</p>
<p style="text-align: right;">Page 314</p> <p>1 Q In 2014? Do you fly on private jets? 2 A No. 3 Q Then do you fly commercial flights? 4 A Commercial. 5 Q So who would be the source of that information? 6 How would I know how much was earned? 7 A I could pull the -- I could pull the books and 8 provide it to you if you need and let you know what 9 we spent on travel, sure. 10 Q Would Tamera be a source of that information? 11 A She could pull it up. 12 Q And there are books and records that relate to 13 Front Sight Focus? 14 A Yeah. 15 Q So we'll leave a space and we'll call for the 16 production of that. How much has Front Sight Focus 17 earned in 2015? 18 A 2015? We're way down. We're 500,000 range. 19 Q And Tamera would be the source of that information? 20 A Are there 2015 numbers in there or is it just -- 21 Q Yeah. The 2015 numbers, they're not totaled. I 22 suppose I could total them and maybe I should have 23 before this deposition, but when you say that 24 they're way down, are you sure of that? 25 A From -- I'd have to look at the dates again, but I</p>	<p style="text-align: right;">Page 316</p> <p>1 A Sure. 2 Q It's fair to say we live in a world where events 3 happen quite often and news travels pretty fast 4 nowadays; right? 5 A September 11 has not happened again. 6 Q Right. Well, that's right. It hasn't. The World 7 Trade Center no longer exists. 8 A Yeah. 9 Q Would Tamera be able to tell me how much was earned 10 in 2016? 11 A Yeah. We could pull those up. 12 Q So we would call for the production of all Front 13 Sight Focus books and records from 2011 to the 14 present time. 15 A Sure. 16 Q During these speaking engagements, what do you talk 17 about? 18 A My career as a SEAL. I talk about the lessons that 19 I've learned and how they can relate to the 20 audience. 21 Q And are these business folks that you speak to? 22 A All sorts of people. 23 Q Now, in what sense is your reputation tarnished? I 24 want to understand that. 25 A The sense that I'm labeled as the guy -- I have</p>


<p style="text-align: right;">Page 317</p> <p>1 plenty of other friends who have written books.</p> <p>2 Not one of them has taken the heat that I have. I</p> <p>3 compare that to Marcus Luttrell, Chris Kyle, even</p> <p>4 the Chuck Pfarrer guy who's full of it and comes up</p> <p>5 with crazy stuff has never been labeled and drug</p> <p>6 through the mud like I have. So yeah, I do believe</p> <p>7 that I worked very hard to build my reputation, and</p> <p>8 my reputation is nowhere near where it was the day</p> <p>9 that I got out of the Navy.</p> <p>10 Q Well, a few years after you got out of the Navy,</p> <p>11 just on one part of your life, you earned 1.265 --</p> <p>12 your company earned \$1.265 million.</p> <p>13 A Right.</p> <p>14 Q Is that how you view your --</p> <p>15 A That's financial. That has nothing to do with the</p> <p>16 reputation.</p> <p>17 Q Okay. Well, I understand that. But a reputation</p> <p>18 as far as on the street or reputation within the</p> <p>19 SEAL company are you referring to?</p> <p>20 A My reputation as an accredited SEAL who served his</p> <p>21 country, served his country at the highest level</p> <p>22 and would hold a value to -- in the corporate</p> <p>23 world, right, bringing that person in to speak.</p> <p>24 Right. There's a loss of value there when</p> <p>25 Corporate America deems me to not be -- oh, wow,</p>	<p style="text-align: right;">Page 319</p> <p>1 be sharing this with you. They told us we can't</p> <p>2 touch you for another 12 months.</p> <p>3 Q Who's that person?</p> <p>4 A Kayle Watson. And I don't even know if he's still</p> <p>5 at the firm.</p> <p>6 Q And if we're in a courtroom and I asked you the</p> <p>7 question, what's your proof that you've been denied</p> <p>8 speaking engagements because of Mr. Podlaski, what</p> <p>9 would be your response?</p> <p>10 A Because of the fact that I've been labeled the guy</p> <p>11 who wrote the bin Laden book and got in a whole</p> <p>12 bunch of heat from the government. Hey, we don't</p> <p>13 want him to come in and speak. So that then</p> <p>14 doesn't make me as marketable as, say, Rob O'Neill,</p> <p>15 right, who also claims to have been on the mission</p> <p>16 and is running around doing speaking events as</p> <p>17 well.</p> <p>18 Q Other than you testifying to that, could you call</p> <p>19 any witnesses that would support that?</p> <p>20 A Support --</p> <p>21 Q Your claim that you've lost speaking engagements</p> <p>22 because of the work that my client did.</p> <p>23 RANDAL JOHNSTON: Object to the form of the</p> <p>24 question.</p> <p>25 MR. FURMAN: That's okay.</p>
<p style="text-align: right;">Page 318</p> <p>1 he's not worth the big dollars to bring in and pay</p> <p>2 him to come speak at the event because of these</p> <p>3 things.</p> <p>4 Q So that's a financial fallout that you've received?</p> <p>5 A Yeah. I think that's why we're saying there's</p> <p>6 damages.</p> <p>7 Q Well, can you tell me one company that has for one</p> <p>8 reason or another told you that they don't want to</p> <p>9 hire you as a speaker because of the work that my</p> <p>10 client did? Can you name one?</p> <p>11 A I've -- we've provided as many e-mails as we can.</p> <p>12 Nobody puts this stuff in writing. Right. When</p> <p>13 they're saying, Hey, we don't want you because of</p> <p>14 your public status, they don't shoot you an e-mail</p> <p>15 saying, Hey, look, you're not invited back.</p> <p>16 One example, I did five events for a big firm</p> <p>17 in New York called BlackRock. I'm sure you've</p> <p>18 heard of it. Loved it. Phenomenal feedback.</p> <p>19 Said, Hey, look, we want to bring you back.</p> <p>20 Everything goes cold. They don't call us again.</p> <p>21 Hey, what's going on? You want us back? And</p> <p>22 couldn't get a reply. Totally blew us off. Called</p> <p>23 some contacts we had there and said, Hey, look,</p> <p>24 what's going on? Everything goes to zero.</p> <p>25 And he said, Look, you know, I shouldn't even</p>	<p style="text-align: right;">Page 320</p> <p>1 RANDAL JOHNSTON: Lack of foundation. But I</p> <p>2 don't mind you answering.</p> <p>3 A I'm sure we'd have to try and get these guys on the</p> <p>4 stand, track down this guy at BlackRock and say,</p> <p>5 Hey, will you do it? He probably won't because he</p> <p>6 risks getting fired. Again, same thing there -- we</p> <p>7 put an example in there with an armor company that</p> <p>8 wanted me to work with them. Setting up all the</p> <p>9 documents. Then all of a sudden they go cold feet</p> <p>10 when they said, Hey, their number one supplier</p> <p>11 won't do business with them if they're doing</p> <p>12 business with me.</p> <p>13 Q Is there anyone else other than Tamera and this</p> <p>14 armor guy that you can tell me --</p> <p>15 A Tamera wouldn't know anything about this.</p> <p>16 Q Because I'd like to talk to those people.</p> <p>17 A Kayle Watson. And I don't even know that he's</p> <p>18 still at BlackRock. The Gladiator guys. I'd have</p> <p>19 to pull names for you. I have the e-mails. But</p> <p>20 yeah. We'll see what they'll tell you. I don't</p> <p>21 think -- the reason they don't put it in the e-mail</p> <p>22 is because they don't want to be fired or</p> <p>23 retaliated against.</p> <p>24 Q The Gladiator guys, you're referring to the show</p> <p>25 the Gladiators?</p>

<p style="text-align: right;">Page 321</p> <p>1 A No, Gladiator Armor, bulletproof plates, armor.</p> <p>2 Q This is a world I don't really know much about. On</p> <p>3 February 10 of 2016, Tamera, the person you</p> <p>4 referred to -- and you can take a look at it. It's</p> <p>5 in the document in front of you. It is after --</p> <p>6 it's not page numbered. But in fact, if I flip it</p> <p>7 for you, I'll find it quicker, Mr. Bissonnette,</p> <p>8 than you would. On February 10 of 2016, Monique</p> <p>9 from BlackRock -- you know who that person is?</p> <p>10 A I don't think I know her.</p> <p>11 Q Monique Le, L-E, wrote, Hi, Tamera. I sincerely</p> <p>12 apologize for the massive delay in the response.</p> <p>13 It's been a challenge finalizing the agenda for our</p> <p>14 conference and confirming the logistics.</p> <p>15 Unfortunately, given the recent market volatility,</p> <p>16 we've had to change a few items around, including</p> <p>17 costs. And we will no longer be able to host Mark</p> <p>18 in Miami this year. Do you see that?</p> <p>19 A Yep.</p> <p>20 Q So the reference here as to why they would not</p> <p>21 bring you back had to do with market volatility and</p> <p>22 costs. Do you see that?</p> <p>23 A Yep.</p> <p>24 Q So there's no reference there to my client's work</p> <p>25 on your behalf.</p>	<p style="text-align: right;">Page 323</p> <p>1 we cleared those accounts and paid it back. That's</p> <p>2 the 2 million -- or whatever the numbers are.</p> <p>3 Q Okay. And within 48 months, you're required to pay</p> <p>4 \$1.379 million and change.</p> <p>5 A Next step would be is to go back and redo all my</p> <p>6 taxes over the past -- since the beginning of the</p> <p>7 book. Any tax income I get back, then pay that</p> <p>8 back to the government and then what will be left</p> <p>9 will be the remaining -- whatever that is. And</p> <p>10 that I have 48 months to pay back to the</p> <p>11 government.</p> <p>12 Q And that would entirely resolve the forfeiture;</p> <p>13 correct?</p> <p>14 A That would be -- every penny made from No Easy Day</p> <p>15 would be returned to the government.</p> <p>16 Q And when is your amended tax return -- when is that</p> <p>17 going to be finalized?</p> <p>18 A Hopefully any day now.</p> <p>19 Q So McGladrey is your accountants and they're</p> <p>20 working on that?</p> <p>21 A Who?</p> <p>22 Q McGladrey. Who are your accountants?</p> <p>23 A A firm out of Denver.</p> <p>24 Q Okay. And they're working on that actively as we</p> <p>25 speak?</p>
<p style="text-align: right;">Page 322</p> <p>1 A Of course not.</p> <p>2 Q So you're saying that your proof is on an</p> <p>3 assumption that Monique is not going to tell the</p> <p>4 truth as to why they're not hiring you?</p> <p>5 A Yeah, yeah. She's not going to come back and be</p> <p>6 direct and say, Hey, look, we were told to avoid</p> <p>7 you. That's where we had to make some phone calls</p> <p>8 to some people we knew and say, Hey, you know, can</p> <p>9 you give us some background?</p> <p>10 Q And let me just swing your attention back to the</p> <p>11 consent decree. There's a requirement that you pay</p> <p>12 a certain amount of money towards legal fees. And</p> <p>13 I forget the date.</p> <p>14 MR. FURMAN: Do you have that date?</p> <p>15 Q Did you pay Mr. Luskin any -- I'm sorry. You were</p> <p>16 supposed to pay the government a certain portion of</p> <p>17 money by a certain date. I think that date has</p> <p>18 either come up or is coming up. And I just wanted</p> <p>19 to know if you made a payment to the government.</p> <p>20 A Yes, I have.</p> <p>21 Q The first payment was \$2.761 million.</p> <p>22 A Paid.</p> <p>23 Q And that money was paid from where? What account?</p> <p>24 A Every dollar that came in to -- through the book</p> <p>25 came into us -- an account and sat there and -- and</p>	<p style="text-align: right;">Page 324</p> <p>1 A Yeah. I believe the -- it might even give us a</p> <p>2 timeline requirement to get it done. So they've</p> <p>3 got to go through four years of returns so they're</p> <p>4 doing that. Once that's done, once I receive the</p> <p>5 refund, I think I have 30 days -- don't quote me on</p> <p>6 that. I don't know what's in the decree. But I</p> <p>7 have a timeline that I have to then return that to</p> <p>8 the government.</p> <p>9 Q And is there any -- and we're going to call for the</p> <p>10 production of that amended tax return. And we'll</p> <p>11 serve a demand. Just leave a space at the end of</p> <p>12 the transcript for that. In terms of legal fees,</p> <p>13 have you completed your payments of Mr. Luskin's</p> <p>14 fees?</p> <p>15 A Yeah. I have -- I haven't got a bill from him in</p> <p>16 several months.</p> <p>17 Q Okay. And presumably since the decree was in</p> <p>18 August of 2016, he's doing no more legal work for</p> <p>19 you; correct?</p> <p>20 A That's the hope.</p> <p>21 Q Okay. On the last page of that document</p> <p>22 production, there is an e-mail from Matt George</p> <p>23 regarding the USO Charlotte.</p> <p>24 A Okay.</p> <p>25 Q And it states, Well, this is so stupid. The USO</p>

<p style="text-align: right;">Page 325</p> <p>1 pulled out of event because of that article. We 2 have one last shot. Antonio is meeting with 3 Andretti people to see if they're interested. He 4 had said that you met with him and you know what 5 he's talking about. I will keep you posted. This 6 has been five months of this. What is that 7 referring to? This is an e-mail dated January 28 8 of 2016.</p> <p>9 A Matt George is a friend we know. We've done 10 several speaking events kind of through him. He 11 connected us to a USO rep down in North Carolina 12 who was interested in hosting me at a Purple 13 Heart/USO event where I'd be a keynote speaker for 14 him. Went and met with him, talked about my 15 presentation, what I could bring to the table, 16 said, Okay, great. And then a short time later 17 they said, Hey, no, we're out. Again, my 18 conclusion would be is they're not interested 19 because of the articles that had come out.</p> <p>20 Q Okay. Did Mr. Lusk give you any reduction or any 21 refund of legal fees he charged?</p> <p>22 A I paid his bills as he sent them. I don't know if 23 they were reduced or whole charges or what, but --</p> <p>24 Q In connection with the forfeited funds, did any of 25 the forfeited funds go to charity?</p>	<p style="text-align: right;">Page 327</p> <p>1 Q And what events -- if I were to look that up, how 2 would I find out about that?</p> <p>3 A I'll give you a list of names to call. Look up the 4 Remington Great America Shoot. It's raised over a 5 million dollars the last three years running. I 6 was the top fundraiser for the event the first two 7 years. I brought my neck doctor in who operated on 8 me for free. He's now the biggest fundraiser, and 9 we host a team every year. It raises over seven 10 figures for charity once a year. That's just one 11 of the events that I participate in. I'm very 12 proud of my charitable service.</p> <p>13 MR. FURMAN: I think we're almost at the end. 14 I'm just going to ask my team just for a second. 15 Thank you.</p> <p>16 THE WITNESS: Yep. 17 (A brief recess was taken.)</p> <p>18 MR. FURMAN: Mr. Bissonnette, I've got a 19 question for you.</p> <p>20 RANDAL JOHNSTON: And let me just say right 21 now --</p> <p>22 MR. FURMAN: That's okay. You can object to 23 it.</p> <p>24 RANDAL JOHNSTON: Well, I'm not going to 25 object, but I will put on the record a personal</p>
<p style="text-align: right;">Page 326</p> <p>1 A No. The government wanted it back.</p> <p>2 Q And of the --</p> <p>3 A I would have been happy to write it to charity 4 rather than the government, but they wanted it 5 back.</p> <p>6 Q Of the several million dollars that you've earned 7 in the speaking engagements through Front Sight 8 Focus --</p> <p>9 A Uh-huh.</p> <p>10 Q -- how much of that have you donated to charity?</p> <p>11 A I do a ton of charity work outside of Front Sight 12 Focus. I've been involved in --</p> <p>13 Q That's not answering my question. My question is 14 of fees -- you've earned --</p> <p>15 A Right.</p> <p>16 Q -- several million through Front Sight Focus in 17 speaking engagements. What portion of those moneys 18 have you donated to charity?</p> <p>19 A Probably 50,000. But my charity -- I do my charity 20 in other ways. I don't necessarily write checks 21 out of my pocket. I help host events, bring people 22 in, raise money, and then all those funds go back 23 to charity. I'm very proud to have raised -- 24 helped raise well over \$2 million that all go back 25 directly to veterans charities.</p>	<p style="text-align: right;">Page 328</p> <p>1 aggravation that we extend courtesies that don't 2 get returned like the timing issue. We're going to 3 continue to cooperate and be professional about 4 this, but -- including letting you go -- exceed 5 your seven hours by some small amount --</p> <p>6 MR. FURMAN: And I will tell you --</p> <p>7 RANDAL JOHNSTON: -- but it is a matter of 8 importance to me at some point.</p> <p>9 MR. FURMAN: Yeah. And Mr. Johnston, I 10 understand it and I -- and I know where you're 11 coming from.</p> <p>12 RANDAL JOHNSTON: Thank you, sir.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q Okay. So Mr. Bissonnette, I want to refer you back 15 to Exhibit No. 1. And this is the DD 1847 that we 16 reviewed together. I'm going to just put it 17 together for you. I know it's hard to read. 18 Earlier you testified that to the best of your 19 knowledge, Operation Neptune Spear was not an SAP; 20 correct?</p> <p>21 A Yes.</p> <p>22 Q The nondisclosure agreement that Jeh Johnson sent 23 over to you was dated January 24 of 2007; correct?</p> <p>24 A Okay.</p> <p>25 Q And that was well before, I believe, anyone knew</p>

<p style="text-align: right;">Page 329</p> <p>1 where Osama bin Laden was. That's my assumption. 2 Why did you forfeit 100 percent of the royalties if 3 Operation Neptune Spear was not an SAP? 4 A There was no way I was going to continue to fight 5 this battle when they would show me documents like 6 this that clearly show that I had to get a 7 prepublication review no matter SAP, not SAP, 8 whatever it was. I was shown documents where it 9 clearly states that I had to seek prepublication 10 review. When I didn't -- we all know we did not. 11 What's the upside to continuing to fight? 12 Certainly when in my second book I chose to follow 13 different counsel and get that book reviewed, why 14 would I continue going back and fighting this issue 15 when I've shown I've learned from my mistake and 16 I'm trying to move on? 17 Q Did you get legal advice from anyone that the 18 DD 1847 that you signed in 2007 required you to 19 forfeit the royalties to No Easy Day? 20 A Did I get legal advice that said -- 21 Q That you were required to forfeit 100 percent of 22 the royalties. 23 A No. That was the agreement we ended up with with 24 the Department of Justice. 25 Q And I guess, you know, the way I'm asking is that</p>	<p style="text-align: right;">Page 331</p> <p>1 royalties that you anticipated giving to charity? 2 A I could have -- I could have given 100 percent. 3 Q Well, did you have an idea of what you planned to 4 do? 5 A We never got there. 6 Q So it could have been 100 percent? 7 A Absolutely. 8 Q And do you stand by that? Would you have given 9 100 percent of the royalties from No Easy Day? 10 A I'm not going to come up with a hypothetical. We 11 never got there. I never -- we just never got 12 there. 13 Q Well, on the date that the book was released, did 14 you have a plan as to the percentage of how much 15 you were going to give to charity? 16 A No, because the date the book released, we already 17 knew we had a letter from Jeh Johnson which meant 18 there was issues. So my mind was never thinking, 19 hey, let's hurry up and think of what percentage 20 I'm going to give to charity. I can remember 21 saying, Hey, look, if the government wants it back, 22 if they want me to donate it, what -- I got zero 23 issues donating every penny to charity. 24 Q Did you propose that to the government? Instead of 25 forfeiting to the government, you --</p>
<p style="text-align: right;">Page 330</p> <p>1 under paragraph 13 of DD 1847, again, dated 2 January 24 of 2007, it states that you hereby 3 assign to the United States Government all rights, 4 title, and interest in all royalties, 5 remunerations, and emoluments that have resulted or 6 will result or may result from any disclosure, 7 publication, or revelation not consistent with the 8 terms of this agreement; right? 9 A Okay. 10 Q And is it your understanding that this agreement 11 applies to Operation Neptune Spear? 12 A Yeah. 13 Q Okay. 14 A And I would say that we didn't -- the agreement 15 with the government wasn't even 100 percent of 16 the -- Elyse Cheney got to keep her royalties and 17 Kevin Maurer got to keep the amount that he had 18 been paid to write the book. So to some degree, 19 hey, it could have even been worse. I'm just 20 looking to finish this and be done with the 21 government. 22 Q And just one last question. In No Easy Day, you 23 reference that you plan to donate a substantial 24 amount of the proceeds to charity. What was the 25 percentage of the amount of contribution from the</p>	<p style="text-align: right;">Page 332</p> <p>1 A I don't know that that was ever officially 2 presented. 3 Q Did you ask your lawyer to present that? 4 A I don't know that I asked him to present it at any 5 time, but it was certainly something that I like to 6 throw out there as, hey, look, this was never about 7 the money. This was about me trying to do the 8 right thing. 9 MR. FURMAN: All right. I have no further 10 questions. Thank you very much. Thank you for the 11 extra time. 12 RANDAL JOHNSTON: You bet. I just have a 13 couple extra questions. I'll go through them as 14 fast as I can here. 15 CROSS-EXAMINATION 16 BY RANDAL JOHNSTON: 17 Q Mr. Bissonnette, at the time you hired 18 Mr. Podlaski, did you have copies of documents you 19 had signed? 20 A No. 21 Q Did he ever ask you for anything that you didn't 22 give him? 23 A No. 24 Q Did he ask you to go get copies of the documents 25 that you did not have copies of?</p>

<p style="text-align: right;">Page 333</p> <p>1 A Never.</p> <p>2 Q Did he ever say to you that from his military</p> <p>3 experience, he knew the form of the documents you</p> <p>4 would have signed as an operator in the SEAL team</p> <p>5 with your experience?</p> <p>6 A Say that one again.</p> <p>7 Q Did he ever say to you that he knew the forms you</p> <p>8 would have signed as an operator in SEAL Team 6?</p> <p>9 A I don't know that he ever came out and said he knew</p> <p>10 what forms. He was certainly quoting a lot of</p> <p>11 different nomenclature to forms that -- I'm</p> <p>12 obviously not a nomenclature guy. So I --</p> <p>13 Q Let me stop you and just try to make this short.</p> <p>14 Did he indicate to you that he had a familiarity</p> <p>15 with the kinds of nondisclosure and prepublication</p> <p>16 documents military personnel routinely sign?</p> <p>17 A Yes.</p> <p>18 Q And in particular, military personnel who are SOCOM</p> <p>19 operators in whatever branch of service?</p> <p>20 A Yes.</p> <p>21 Q You went over this, but let me just ask really</p> <p>22 quickly. In your forfeiture with the government,</p> <p>23 did the government give you credit for the portion</p> <p>24 of the royalties that went to Elyse Cheney as the</p> <p>25 literary agent?</p>	<p style="text-align: right;">Page 335</p> <p>1 A Had the book been published with no issues and no</p> <p>2 drama, had I not been -- my name not been disclosed</p> <p>3 and I could continue to kind of fly under the radar</p> <p>4 and not have to worry about the safety and security</p> <p>5 of my family, I could have very easily done</p> <p>6 100 percent.</p> <p>7 Q Was there any level of income that you would have</p> <p>8 to have had before you would donate 100 percent?</p> <p>9 Was it --</p> <p>10 A No.</p> <p>11 Q -- contingent on the number of book sales or</p> <p>12 royalties?</p> <p>13 A No, no.</p> <p>14 RANDAL JOHNSTON: That's all I had to ask.</p> <p>15 THE COURT REPORTER: Do you want to reserve</p> <p>16 signature?</p> <p>17 RANDAL JOHNSTON: Yes, please.</p> <p>18 THE COURT REPORTER: Do you want it sent to</p> <p>19 you or directly to the witness?</p> <p>20 RANDAL JOHNSTON: Send it to me.</p> <p>21 THE COURT REPORTER: Did you want to order a</p> <p>22 copy?</p> <p>23 RANDAL JOHNSTON: Yes, please.</p> <p>24 THE COURT REPORTER: What would you like?</p> <p>25 RANDAL JOHNSTON: Coyt?</p>
<p style="text-align: right;">Page 334</p> <p>1 A Yeah.</p> <p>2 Q So you didn't have to forfeit that. You didn't</p> <p>3 have to pay her and then forfeit it back to the</p> <p>4 government also?</p> <p>5 A Agree, yes.</p> <p>6 Q And then same thing with Kevin Maurer?</p> <p>7 A Yes.</p> <p>8 Q Let me ask you this: Mr. -- well, let me ask first</p> <p>9 one more question that I got from Mr. Furman's</p> <p>10 question. He was asking you about if you knew what</p> <p>11 documents Mr. Podlaski would have given the</p> <p>12 Department of Justice that had not been given to</p> <p>13 you as a part of the document production. Can you</p> <p>14 think of anyone else who could tell Mr. Furman and</p> <p>15 us what documents Mr. Podlaski gave the Department</p> <p>16 of Justice?</p> <p>17 A I would think the only person who could do that</p> <p>18 would be Mr. Podlaski.</p> <p>19 Q Mr. Furman was asking you about your -- the premise</p> <p>20 in your book of donating a major portion of the</p> <p>21 proceeds of the book to charity. Let me just ask</p> <p>22 you, under -- forget what really happened. Under</p> <p>23 what circumstances would you have donated</p> <p>24 100 percent of the proceeds to charity? What would</p> <p>25 have had to have happened for you to do that?</p>	<p style="text-align: right;">Page 336</p> <p>1 COYT JOHNSTON: I definitely want it in TXT.</p> <p>2 Maybe a PDF as well but definitely TXT. TXT is my</p> <p>3 preferred one.</p> <p>4 THE COURT REPORTER: Are you okay with</p> <p>5 electronic exhibits?</p> <p>6 COYT JOHNSTON: Electronic is fine.</p> <p>7 THE COURT REPORTER: Do you know what kind of</p> <p>8 transcript you want? Full size, condensed,</p> <p>9 electronic?</p> <p>10 MS. LEMKHEN: Both condensed and full size and</p> <p>11 definitely electronic as well.</p> <p>12 (The deposition was concluded at 6:03 p.m.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 337</p> <p>1 UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF INDIANA 3 4 MATTHEW BISSONNETTE,) 5 Plaintiff,) 6 -v-) CAUSE NO. 7 KEVIN PODLASKI and CARSON) 1:15-CV-00334 8 BOXBERGER, LLP,) 9 Defendants.) 10 11 Job No. 114764 12 13 I, MATTHEW BISSONNETTE, state that I have read 14 the foregoing transcript of the testimony given by me 15 at my deposition on November 16, 2016, and that said 16 transcript constitutes a true and correct record of 17 the testimony given by me at said deposition except as 18 I have so indicated on the errata sheets provided 19 herein. 20 21 22 23 24 25</p> <p style="text-align: center;">MATTHEW BISSONNETTE</p> <p style="text-align: center;">STEWART RICHARDSON & ASSOCIATES Registered Professional Reporters One Indiana Square, Suite 2425 Indianapolis, IN 46204 (317) 237-3773</p>	<p style="text-align: right;">Page 339</p> <p>1 hand and affixed my notarial seal this 29th day of 2 November, 2016. 3 4 5 6 7 8 9 10 11 My commission expires: 12 September 1, 2022 13 14 Job No. 114764 15 16 17 18 19 20 21 22 23 24 25</p> 
<p style="text-align: right;">Page 338</p> <p>1 STATE OF INDIANA 2 COUNTY OF HAMILTON 3 4 I, Julie A. Nicholson, RPR, CRR, a Notary 5 Public in and for said county and state, do hereby 6 certify that the deponent herein was by me first duly 7 sworn to tell the truth, the whole truth, and nothing 8 but the truth in the aforementioned matter; 9 That the foregoing deposition was taken on 10 behalf of the Defendants; that said deposition was 11 taken at the time and place heretofore mentioned 12 between 9:25 a.m. and 6:03 p.m.; 13 That said deposition was taken down in 14 stenograph notes and afterwards reduced to typewriting 15 under my direction; and that the typewritten 16 transcript is a true record of the testimony given by 17 said deponent; 18 And thereafter presented to said witness for 19 signature; that this certificate does not purport to 20 acknowledge or verify the signature hereto of the 21 deponent. 22 I do further certify that I am a disinterested 23 person in this cause of action; that I am not a 24 relative of the attorneys for any of the parties. 25 IN WITNESS WHEREOF, I have hereunto set my</p>	<p style="text-align: right;">Page 340</p> <p>1 A. Michael Furman, Esq. (Originating Party) 2 FURMAN KORNFIELD & BRENNAN, LLP 3 61 Broadway, 26th Floor 4 New York, NY 10006 5 6 NOTICE OF DEPOSITION SUBMISSION 7 JOB NO. 114764 8 9 In the United States District Court, 10 Northern District of Indiana 11 Cause No. 1:15-CV-00334 12 MATTHEW BISSONNETTE, Plaintiff, 13 v. 14 KEVIN PODLASKI and CARSON BOXBERGER, LLP, Defendants. 15 16 In compliance with all applicable rules, you 17 are notified the signed original deposition of 18 MATTHEW BISSONNETTE has been sealed and submitted 19 to the originating party. 20 21 (Date of submission or mailing by certified mail) 22 23 cc: Coyt Randal Johnston, Esq. 24 25</p> <p style="text-align: center;">STEWART RICHARDSON & ASSOCIATES Registered Professional Reporters One Indiana Square, Suite 2425 Indianapolis, IN 46204 (317) 237-3773</p>

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RE: Indiana Rules of Procedure, Trial 30(E) and/or Federal rules of Civil Procedure

After having read my deposition, I wish to make the following changes:

PAGE 313 LINE 23

CHANGE \$500.000

TO \$150,162.33

REASON FOR CHANGE I was just giving my best estimate in my deposition and I was way off. I now know the exact figure.

PAGE _____ LINE _____

CHANGE _____

TO _____

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I am, therefore, signing my deposition conditioned on the fact the above noted shall be entered upon the deposition by the notary public.

☐ Please check for no changes

A handwritten signature in black ink, appearing to read "Matthew Brown".
(Signature of deponent)